Saskatchewan Workers' Compensation Act

Committee of Review

2001 Report

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December 31, 2001

(Appointed by Order in Council dated May 15, 2001)

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December 5, 2001

Honourable Deb Higgins
Minister of Labour
Room 315
Legislative Building
Regina SK S4S 0B3

Dear Minister Higgins:

The Workers' Compensation Act Committee of Review respectfully submits this report of its review of the provincial workers' compensation system pursuant to section 162 of *The Workers' Compensation Act, 1979*.

The Committee members have appreciated and are thankful for the opportunity to be of service to the workers, employers and public of the Province of Saskatchewan.

Sincerely,

James E. Dorsey, Q.C.
Chair

Walter Eberle
Worker Representative

Jack Mathieson
Vice-Chair/ Employer Representative

Jacquie Griffiths
Worker Representative

Doug Pawson
Employer Representative

Garth Ivey
Worker Representative

Elaine Vetter
Employer Representative

ACKNOWLEDGEMENTS

The Committee of Review extends its thanks to the many individuals and organizations that participated in the review process through written submissions or presentations to the Committee. The Committee sincerely appreciates the time and effort you took to share your experiences, concerns and proposals to improve *The Workers' Compensation Act, 1979*, the regulations and the administration of the Act and the regulations.

The Committee wishes to thank the Workers' Compensation Board and its staff, in particular Norm Bright, Executive Information Officer and Mitchell Scott, Director, Program Evaluation and Internal Audit, for assistance and patience in answering the Committee's many questions and requests for information. The Committee thanks the Office of the Worker's Advocate for its enthusiastic support for the review process.

The Committee is indebted to, and wishes to thank, all the staff seconded from the Department of Labour without whom we would not have been able to fu!fill our mandate. These individuals include Penny Schouten, Administrative Assistant, Janice Szuch, Research Officer, and, especially, Pat Parenteau, Project Manager.

The Committee also extends its appreciation to the members' employers and families for supporting the members in their time away from their workplaces and homes.

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1. INTRODUCTION

1.01 Committee of Review Process

Since July 1, 1945, *The Workmen's Compensation Act* and then *The Workers' Compensation Act, 1979,* have required the Lieutenant Governor in Council, at least once every four years, to appoint a review committee, comprised of equal representation of employers and organized employees. The Committee's mandate is to review and report on all matters concerning the Act, the regulations and the administration of the Act and the regulations. The 1945 enactment adopted an existing provincial policy of reviewing the statute at "four year intervals".[1]

The first Committee of Review, appointed on October 7, 1949, consisted of a Chairman and six members. There have been ten subsequent Committees of Review in 1954, 1958, 1963/64, 1968, 1971/73, 1978, 1982, 1986, 1991/92 and 1996. Judge Alastair J. Muir chaired the five committees from 1971 to 1991. The community is indebted to him for his continuing commitment to workers' compensation.[2]

This twelfth Committee of Review was appointed May 15, 2001, by Order-in-Council No. 369/2001. The members of the Committee are: James E. Dorsey, Q.C. (Chair); Walter Eberle, Regina, Grain Services Union; Jacquie Griffiths, Saskatoon, Canadian Union of Public Employees; Garth Ivey, Regina, International Brotherhood of Electrical Workers - Local 2038; Jack Mathieson, Regina, IPSCO; Doug Pawson, Regina, Saskatchewan Association of Health Organizations; Elaine Vetter, Saskatoon, formerly with the Potash Corporation of Saskatchewan. By custom, the Vice-Chair alternates between a representative of employers and organized employees from one committee to the next. Mr. Mathieson was appointed Vice-Chair of this Committee.

This Committee of Review determined that consultations with injured workers, employers, organizations representing employers and employees and the general public was the best way to identify the effectiveness of the compensation system. To inform persons of the current review and to invite them to make submissions to the Committee, advertisements were placed in several newspapers and weekly publications. The Committee established a website (www.wca-cor.sk.ca) to disseminate information, receive submissions and communicate with the public by e-mail.

Public hearings were held in Swift Current on September 10th, Regina on September 11th and 12th, Yorkton on September 17th, Saskatoon on September 18th, 19th and part of September 20th and North Battleford on September 21st. The Committee heard 89 presentations and received over 100 submissions.

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[1] W.F. Dunn, K.C., Chairman, Workmen's Compensation Board, *Memorandum to the Special Select Committee of the Legislative Assembly of Saskatchewan re Social Welfare, etc.*, April 5, 1943, p. 11.

[2] For a 1989 account of the review process by Judge A.J. Muir see *The Review Process under the Saskatchewan Workers' Compensation Act* in *Meredith Memorial Lectures 1987-1991* (AWCBC/ACATC, 1992), pp. 50-61.

The Committee met with Board members, executive and employees of the Workers' Compensation Board and representatives of the Office of the Worker's Advocate. The Committee reviewed policy and procedure manuals, decisions and data from the Board and met with the Ombudsman. The Committee also undertook some independent research.

The Committee recognizes there are many dedicated employees of the Workers' Compensation Board and the Office of the Worker's Advocate who do good work everyday delivering the workers' compensation program under *The Workers' Compensation Act, 1979*, the federal *Government Employees' Compensation Act* and *The Special Payment (Dependent Spouses) Act*.

The Committee's review process is a forum for persons to recount personal experiences with the workers' compensation system. Through their candor, honesty, frustration, anger and tears, we witnessed the profound impact decisions of the members and employees of the Workers' Compensation Board have on individuals, families and businesses.

Some persons asked us to resolve their individual differences with the Board. We cannot. It is not within our mandate to review individual differences. However, it is through individual experiences that we have gained insight into the day-to-day operation and administration of the statute and regulations.

The Committee's review process is a forum for persons to advocate for their interests and their private and public policy agendas. Some individuals and organizations brought forward grievances - some recent and some longstanding.

Some persons asked us to address questions they could pursue under existing provisions of the statute, regulations and existing policies. These we have not addressed.

The Committee's focus has been to identify issues and make practical recommendations to keep the Saskatchewan workers' compensation program current and consistent with the principles affirmed in the 1928 Saskatchewan Anderson Royal Commission on workers' compensation,[3] which endorsed the 1913 Ontario Meredith Report.[4]

When isolating the issues to receive attention in this review, the Committee considered the government and Board initiatives since the eleventh Committee of Review report in 1996. The Committee was also mindful of the recently enacted requirement for costing of all legislative and regulatory proposals.[5]

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[3] Percy M. Anderson, K.C., *Report of the Royal Commission Appointed to Enquire into Workmen's Compensation for Saskatchewan* (King's Printer, 1929).

[4] The Hon. Sir William Ralph Meredith, C.J.O., *Final Report* (October 31, 1913) reproduced in *The Story of Workers' Compensation in Saskatchewan* (1997, Saskatchewan Workers' Compensation Board), pp. 151-176.

[5] Government of Saskatchewan, *Decision Making and Implementation Process in Saskatchewan*, 1997.

1.02 *The Special Payment (Dependent Spouses) Act*

Effective March 1, 1999, *The Special Payment (Dependent Spouses) Act* provides that the Board pay $80,000 to each eligible person who, prior to September 1, 1985, was in receipt of compensation but had their compensation terminated by reason of re-marriage or entering into a common law relationship. Eligible persons were to apply within two years. All but one of the 264 eligible persons applied. The one person is pursuing a remedy through litigation. Six persons, whose compensation benefits were terminated between April 17, 1985, the date the *Canadian Charter of Rights and Freedoms* came into effect, and September 1, 1985, had their benefits reinstated.

The Committee heard several representations that the provisions of this statute were inadequate or unfair and that the $80,000 payments disparately affected some eligible persons who were also eligible for benefits under federal and provincial means based programs. The $80,000 payment was offset, in part, by reductions in payments under the means based programs.

The Committee has concluded that a review of *The Special Payment (Dependent Spouses) Act* and its administration is not intended to be part of the mandate of a Committee of Review constituted under section 162 of *The Workers' Compensation Act, 1979*. The mandate is to "report on all matters concerning this Act, the regulations and the administration of this Act and the regulations".

1.03 *Government Employees' Compensation Act*

The Board administers the federal *Government Employees' Compensation Act* (GECA) under a contract with the federal government. The provisions of that statute are not within the mandate of this Committee of Review. It has recently been the subject of a review by Human Resources Development Canada.[6]

Figure 1: Government Employees' Compensation Act Costs and Fees (1995-2000)

	1995	1996	1997	1998	1999	2000
Claims Costs	$1,607,719	$1,604,349	$1,827,822	$1,685,809	$2,378,857	$1,991,628
Administration Fees	$414,741	$429,524	$523,330	$505,669	$766,579	$594,211
Adjudication Fees	$134,803	$58,572	$138,497	$101,934	$147,732	$158,783

[6] Diane Rguem, *Advisory Committee for The Review of The Government Employees' Compensation Act Final Report* (June 2000), Human Resources Development Canada.

1.04 Employment Insurance and Canada Pension Plan Contributions

Injured workers receiving compensation cannot contribute to Employment Insurance and Canada Pension Plan. This is a consequence of limitations in the Canada Pension Plan and the Employment Insurance Act, not provisions of *The Workers' Compensation Act, 1979*.

2. HIGHLIGHTS SINCE LAST COMMITTEE OF REVIEW

2.01 Labour Force Participation and Employment Distribution

Since 1996, labour force participation and the unemployment rate have been relatively static. The industrial distribution of employment has changed in the last five years.

Figure 2: Employment Distribution (000s) (1996-2000)

	1996	1997	1998	1999	2000
Agriculture	71.4	70.0	71.6	67.5	62.0
Other Primary Industries	13.9	16.5	15.9	13.5	16.5
Manufacturing	28.4	29.4	30.4	28.4	29.4
Construction	19.9	22.2	22.4	23.5	24.6
Transportation, Warehousing, Other Utilities	27.6	27.7	27.1	28.6	31.7
Trade	69.8	71.4	73.6	76.6	76.3
Finance, Insurance, Real Estate, Leasing	24.5	25.2	25.4	27.7	26.6
Service:					
Professional, Scientific and Technical Services	13.7	14.3	15.6	15.2	16.7
Management of Companies and Administrative and Other Support Services	9.2	9.3	10.1	11.8	10.4
Educational Services	31.7	32.7	34.5	36.3	36.0
Health Care and Social Assistance	48.6	51.0	50.4	51.2	54.6
Information, Culture and Recreation	16.9	17.5	18.7	20.0	18.0
Accommodation and Food Services	29.3	29.1	28.3	30.9	33.1
Other Services	23.3	24.1	23.6	25.3	23.8
Public Administration	29.3	29.7	28.7	26.7	26.7
Total	457.5	470.0	476.3	480.1	485.0

Statistics Canada, *Labour Force Historical Review, 2000*
Saskatchewan Finance, Bureau of Statistics, *Saskatchewan Economic Statistics*
Saskatchewan Finance, Bureau of Statistics, *Saskatchewan Fact Sheet 2001*

In general, there has been a six percent increase in employment over the five year period. The majority of this increase has occurred in the services sector, specifically in the areas of health, education and accommodation and food services. Declines in employment have occurred in the agricultural sector and public administration.

2.02 Reserves for the Future, Revenue and Rebates

The Board must, and has, maintained a fully funded position with sufficient current reserves to pay future liabilities.[7] The Board is required to maintain reserves "at a level equal to the total expenditures of the Board for the immediately preceding calendar year".[8] Saskatchewan has the second highest reserve as a percentage of expenditures among the six fully funded workers' compensation programs in Canada. The Yukon is first and Manitoba is third.[9]

Figure 3: Reserves Profile ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Disaster & Occupational Disease	12,463	12,463	19,300	20,740	22,264	22,770
Second Injury & Re-employment	5,675	5,675	4,800	5,185	5,566	5,693
Economic Stabilization	0	0	24,100	25,925	27,830	28,463
General	21,737	10,599	0	0	0	0
Operating	0	0	0	0	0	0
Future Benefits Administration	0	0	41,800	44,937	48,239	49,335
Contingency	0	0	0	23,000	0	0
Injury Fund	0	9,743	24,501	24,097	28,397	30,731
Total Reserves	**39,875**	**38,480**	**114,501**	**143,884**	**132,296**	**136,992**
Total Expenses	175,349	144,762	160,928	172,848	185,535	189,751
Reserves as % of Expenses	**22.74%**	**26.58%**	**71.15%**	**83.24%**	**71.31%**	**72.20%**

Board revenue is principally income from assessments and its return on investing the money set aside to make payments for past injuries and as reserves. The Board earned exceptional income from investments during the period 1995 to 2000.

Figure 4: Income Profile ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Assessments Collected	137,908	154,517	179,286	157,735	154,733	147,958
Merit Rebate	-8,876	-11,393	-12,436	-14,331	-13,843	-12,276
Surplus Rebate	0	0	0	-23,000	-36,000	-36,000
Debt Amortization	0	0	0	5,931	5,194	2,937
Surplus Amortization	0	0	0	-10,689	-9,179,	-16,606
Surcharge Penalty	2,526	3,418	2,855	3,258	4,448	3,444
Government of Canada	1,607	1,605	1,828	1,686	2,379	1,992
Safety Associations	-1,641	-1,359	-1,655	-1,9330	-2,233	-2,635
Net Assessments	131,524	146,788	169,878	118,657	105,499	88,814
Investment Income	**40,658**	**54,209**	**67,071**	**78,816**	**96,206**	**105,633**
Total Income	172,182	200,997	236,949	197,473	201,705	194,447
Investment Income %	**23.61**	**26.97**	**28.31**	**39.91**	**47.70**	**54.32**

[7] Government of Saskatchewan, *The Workers' Compensation Act, 1979*, c. W-17.1, ss. 118(1).
[8] *The Workers' Compensation Act, 1979*, ss. 118(2).
[9] See Year 2000 Workers' Compensation Boards of Canada Annual Reports

This level of investment income enabled the Board to establish its all time high reserves.

Throughout the past five years, the assessable payroll has steadily increased with growth in employment.

Figure 5: Assessable Payroll ($billions) (1996-2000)

	1996	1997	1998	1999	2000
Assessable Payroll	7.47	8.14	8.49	8.73	9.08

Following rate shock to employers in 1995 from Board announced rate increases, the provincial government intervened.[10] As a result, average assessment rates declined and the Board adopted an actuarially sound rate setting model and a published funding policy.[11]

As a consequence of a higher proportion of the annual revenue coming from investment income and actuarially sound assessment rates, there was a decrease in the contribution from employer remitted assessments toward the annual costs of the workers' compensation program.

After adjustments for rebates, net total assessment revenue declined from $131,524,000 in 1995 to $88,814,000 in 2000.

With the disastrous events in recent months and the downturn in the economy and equity markets, the percentage of annual income from investments is likely to decline. The decline will be cushioned by the smoothing principles applied to booking investment gains and losses. There are unlikely to be significant rebates in the coming years.

The Board has managed the Injury Fund well in the past five years and the workers' compensation program is well positioned for the uncertainties ahead.

2.03 Early Intervention Initiative

The 1992 Committee of Review recognized a need for "a comprehensive and aggressive program having as its objective the return of the worker to his or her former occupation, or to some alternative suitable and available employment."[12]

In 1994, the Board constituted a task force to look at injuries and claims that had been difficult to resolve. These were often strains and sprains. The task force recommended time driven assessment and treatment available to workers close to their homes.

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[10] See Bruce L. Neville, *Review of the Saskatchewan Workers' Compensation Board's 1996 Assessment Rates and Assessment Rate Process*, (January 31, 1996).

[11] Saskatchewan Workers' Compensation Board, *Board Policy Manual*, POL04/98.

[12] *Report of the Workers' Compensation Act Review Committee August 1992*, p. 7.

The Board's 1996 Early Intervention Program (EIP), with its mix of private and public medical rehabilitation, following the 1995 *Report of the Task Force on Early Intervention*, was a major initiative. The pattern of referrals of workers for assessment and admission for treatment has changed dramatically since 1995. The number of claims extending beyond four weeks has been increasing. At the same time, the number of claims referred to Board Medical Officers for review and opinions has declined.

Figure 6: Early Intervention Program and Medical Officer Referrals (1995-2000)

	1995	1996	1997	1998	1999	2000
Workers seen by assessment team	n/a	100	1,129	1,577	1,471	1,580
Admissions to treatment centers	391	761	776	1,079	960	1,190
Claims longer than four weeks	n/a	n/a	7,439	7,655	7,849	8,830
Referrals to Board Medical Officers	9,998	6,769	5,677	4,707	4,932	4,847

Throughout the same period, the number of newly reported and claims settled each year was relatively consistent from year to year. The Committee has been unable to determine how many claims opened by the Board as a new claim and assigned a new claim number were, in fact, recurrences of previous injuries or how many of these involved workers who have received assessment or treatment in the EIP.

Figure 7: Reported/Settled Claims (1995-2000)

	1995	1996	1997	1998	1999	2000
Reported claims	36,629	37,169	38,954	37,657	36,346	37,717
Settled claims	31,370	32,471	31,520	30,276	29,314	30,519

Average claims duration rose from 21.4 days in 1996 [there is no data for 1995] to 25.8 days in 2000. The average duration of claims targeted by the EIP, those longer than four weeks, progressively increased each year from 81.50 days in 1996 to 86.66 days in 2000.

Figure 8: Average Claims Duration in Days (1996-2000)

	1996	1997	1998	1999	2000
All claims	21.4	22.2	23.9	24.9	25.8
Claims < 4 weeks	6.42	6.53	6.49	6.52	6.72
Claims > 4 weeks	81.50	81.97	84.56	86.54	86.66

The Committee received several submissions about the impact of the program on individuals and the quality of service provided under the program by the Board and the 36 service providers (18 treatment centers and 18 assessment teams) approved by the Board. Injured workers told us they were treated, discharged as capable to return to work and had their compensation benefits terminated, but were unable to return to work. In some cases, their physicians believed they were not physically able to return to work. This needs to be investigated.

There are two drivers for the administration of the EIP. The first is unpublished, expected recovery timetables based on average clinical courses for various conditions. These were prepared for the Board in January 1996. The second is an assessment that a worker is a high risk for chronicity based on events in the claim file and a codified list of chronic disability risk factors.

Recommendation: That the Board publish both the expected recovery timetables and the list of chronic disability risk factors it uses, and amendments as they are made.

As Figure 6 indicates, since 1997, the number of workers referred for assessment and admitted for treatment by the approved service providers has increased. Figure 9 shows that the average number of days in secondary treatment has increased, while the average number of days in tertiary treatment has decreased.

Figure 9: Average Number of Treatment Days in the Early Intervention Program (1997-2000)

		1997	1998	1999	2000
Secondary treatment		31.41	33.54	35.69	34.52
Tertiary treatment		46.16	45.81	44.48	45.93
	Average	34.87	37.65	39.37	39.69

A key feature of the EIP is that it is early detection and intervention. Since 1997, the duration of time loss, at time of referral, has consistently increased.

Figure 10: Time Loss Prior to Referral to EIP (weeks) (1997-2000)

		1997	1998	1999	2000
Secondary assessment		18.75	21.27	22.19	22.00
Tertiary assessment		24.01	31.91	35.33	37.70
	Average	19.95	24.81	27.69	29.00

The Board reports the percentage of injured workers who return to work from secondary and tertiary treatment. The percentages reflect reports by the approved service providers that a worker is **capable** of returning to work, not that the worker actually returned to work or achieved a safe and sustained return to work. The percentages have increased for secondary treatment and decreased for tertiary treatment.

Figure 11: Workers Reported Capable of Returning to Work (1997-2000)

	1997	1998	1999	2000
Secondary treatment	76%	84%	87%	85%
Tertiary treatment	74%	70%	67%	66%

Figure 12: Worker's Fitness to Return to Work from Secondary Treatment, by Category (1997-2000)

	1997	1998	1999	2000
Fit to Return to Pre-Injury Work	264	540	477	547
Discharged with Restrictions	19	33	30	27

Figure 13: Worker's Fitness to Return to Work from Tertiary Treatment, by Category (1997-2000)

	1997	1998	1999	2000
Fit to Return to Pre-Injury Work	72	220	259	356
Discharged with Restrictions	13	59	75	114

The Board established an EIP Advisory Committee to develop a system to monitor and evaluate this initiative. To date, there is no ongoing system in place to evaluate the cost and effectiveness of the EIP. A comprehensive, prospective evaluation study has been designed and is to be undertaken in the next two years. It is our understanding that the study will track workers' compensation claimants for one year from the date of entering the compensation system. This will be achieved through the use of questionnaires developed by the Workers' Compensation Board. The firm of Pricewaterhouse Cooper has been contracted to perform an analysis of the information acquired from the survey.

The Board's Early Intervention Program requires a methodical and thorough evaluation. This Committee heard recurring and familiar complaints about Board physicians, and reliance on their opinions in preference to those of the treating physicians and specialists. There were new complaints about Board approved rehabilitation providers and concerns about whether their decisions and reports were primarily responsive to the needs of the injured worker or the cost containment interests of the Board.

Recommendation: That the Board have an independent party undertake an objective evaluation of the performance of its Early Intervention Program assessing its service providers against clinically acceptable standards in a comprehensive manner similar to the process for accreditation of public health facilities.

Recommendation: That the Board annually publish a report to the public on the actual results and outcomes of the Early Intervention Program for the previous year against its intended objectives.

2.04 Claims Volume and Administration Costs

The number of reported claims and requests to have claims reopened are the primary drivers of the work of the Board and the Office of Worker's Advocate. Reported claims and requests to reopen claims have been relatively constant from 1995 to 2000. Another driver of work volume for the Board is the number of registered employers and persons opting for voluntary coverage. These numbers have also been relatively constant.

Figure 14: Claims Profile (1995-2000)

	1995	1996	1997	1998	1999	2000
Reported Claims	36,629	37,169	38,954	37,657	36,346	37,717
Total claims not accepted	5,633	5,437	5,409	5,309	4,870	4,790
Not accepted because:						
Disallowed	2,206	2,926	2,867	3,007	2,809	2,409
Rejected - no reply	614	731	878	1,022	1,438	1,368
Duplicate/cancelled	70	580	404	360	412	551
Not covered by statute	242	159	177	177	243	247
Inter-provincial	364	351	317	265	252	302
Other	1,763	690	766	478	284	135
Total claims accepted	30,996	31,732	33,545	32,348	31,476	32,927
Type of accepted claims:						
Time loss claims	13,320	13,018	13,430	13,081	13,108	14,433
No time loss claims	17,654	18,690	20,690	19,240	18,337	18,459
Fatalities	22	24	34	27	31	35
Reopened claims (within 6 months)	4,792	4,504	4,910	5,942	6,482	7,637
Total reported & reopened	41,421	41,673	43,864	43,599	42,828	45,354

Figure 15: Employer Profile (1995-2000)

	1995	1996	1997	1998	1999	2000
Active employers	29,020	28,222	29,473	31,246	31,110	30,680
Persons opted for coverage	5,367	4,633	4,958	4,857	4,921	4,665
Total	34,387	32,855	34,431	36,103	36,031	35,345

Throughout the same period, the Board's administrative expenses and net costs have increased.

Figure 16: Administration Expenses ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Salaries	12,742	12,564	13,941	14,945	16,355	17,645
Amortization	4,165	5,012	5,507	5,163	5,580	5,276
Computer processing	3,772	3,907	4,035	4,803	4,806	4,825
Employee benefits	1,566	1,757	2,039	2,199	2,833	2,219
Printing, stationery and office supplies	582	943	957	1,893	2,858	2,149
Communications and postage	859	914	953	1,037	1,139	1,013
Building operations	866	843	922	935	1,007	1,018
Professional services	246	661	790	889	1,508	1,581
Consulting services	624	637	656	559	861	991
Travel and automobile expenses	460	415	531	509	747	892
Miscellaneous	225	207	175	485	718	833
Office rental	147	148	174	212	230	274
Office machines and equipment	113	84	52	101	88	150
Sub-Total	**26,367**	**28,092**	**30,732**	**33,730**	**38,730**	**38,866**
Less:						
Expenses charged to Gov't of Canada	415	429	523	506	766	594
Premium penalties	447	675	730	848	800	600
Adjudication fees	135	111	139	102	148	159
Total	**25,370**	**26,877**	**29,340**	**32,274**	**37,016**	**37,513**

Net administration expenses have increased from $25.4 million in 1995 to $37.5 million in 2000. This is a 48% increase. The largest cost increase was salaries.

Figure 17: WCB Staff Complement (1995-2000)

	1995	1996	1997	1998	1999	2000
Staff	337	345	370	378	384	407

The following table compares the Board's net administration costs as a percentage of assessable payroll, total revenue, assessment revenue and total expenses. In absolute terms and as a percentage of each, the administration costs have increased. Throughout the period, staffing increased despite the increased expenditures on consultants and professionals.

Figure 18: Net Administration Expenses ($000) as Percentage of Payroll, Revenue (premiums & investment income), Assessment and Total Expenses (1995-2000)

	1995	1996	1997	1998	1999	2000
Net administration cost	$25,370	$26,877	$29,340	$32,565	$37,016	$37,513
Admin as % of assess. payroll	0.347%	0.360%	0.360%	0.384%	0.424%	0.413%
Admin cost per reported claim	$692.62	$723.10	$753.20	$864.78	$1,018.43	$994.59
Revenue (premiums & investment income)	$173,823	$202,356	$236,949	$220,473	$237,705	$230,447
Admin cost as % of revenue	14.60%	13.28%	12.38%	14.77%	15.57%	16.28%
Assessment revenue	$133,165	$148,147	$169,878	$141,657	$141,499	$124,814
Admin cost as % of assessments	19.05%	18.14%	17.27%	22.99%	26.16%	30.06%
Total expenses	$133,165	$144,762	$160,928	$172,848	$185,535	$189,751
Admin cost as % of expenses	14.47%	18.57%	18.23%	18.84%	19.95%	19.77%

The Committee is concerned about the six year growth trend in administration expenses and that there will be a loss of confidence in the management of the Board if this trend continues.

Recommendation: The Board complete and publish a multi-year operational plan, including projected total and administration annual expenses, to implement its strategic plan.

2.05 Communications

Communication with individual injured workers is critical to the ongoing management of each claim. Making a claim and dealing with the Board can be a frightening and confusing process for injured workers and their families who are facing an uncertain future. The form letters, fact sheets, forms and booklets currently used by the Board are not effective in assisting injured workers with their claims. Other workers' compensation boards have found ways to simplify and make their communications effective.

Recommendation: The Board prepare a comprehensive, plain language statement and diagram explaining to each worker making a claim or requesting a reopening of a claim the steps the Board will take in dealing with the claim and the likely times at which each step will be taken.

A need for the Board to improve communications has been a recurring theme of past Committees of Review. Since 1995, the Board has undertaken several communications initiatives – establishment of a communications unit; a newsletter called *Compensation Reporter*; an abundance of brochures; a new website; a speakers bureau for Board employees; monthly surveys; internal cultural inventories; rate information meetings; a mid-year review; publication of policies; and a workers' compensation conference called the Compensation Institute.

A recurring complaint from the worker and employer stakeholders is that the self-congratulatory gloss on the communications from the Board has been so bright that it is often impossible to see through it to what is really going on. Shortcomings are ignored or glossed over in the Board's communications. It manages, more than shares, information. The Board should err on the side of disclosing and sharing information whether it is, or is not, flattering of the Board's performance.

The Board has an express duty to "make its policy directives available to the public."[13] It was recently reported in the administrative review initiated by the Minister that the Board was not publishing and making available to the public all of its policy directives and written materials used by the Board as the basis for decisions under the Act.[14]

Recommendation: The Board compile and publish all of its policy statements, practices and procedures developed and used by its employees for the basis of decisions under the Act.

The Board has the duty to "annually hold one or more meetings for the purpose of reporting to all persons interested, including workers, dependents of workers, employers, employer associations and labour organizations, on the administration of the Act and the policies of the Board". At those meetings, the Board "must provide information with respect to its activities, policies and future plans in accordance with the regulations".[15] Under the regulations, the Board must provide information about:

- annual statement of priorities;
- policy changes implemented in the past year or proposed;
- program changes implemented or proposed;
- board's strategic and capital plan;
- board's capital and operating budgets for the current and upcoming year;
- other matters requested by the Minister; and
- any other matter the Board determines.[16]

In holding this annual meeting, the Board has been fulfilling the letter of the regulation, but not the spirit or the intention of the recommendation of the 1996 Committee of Review, which led to this change to the express duties of the Board. It was recommended that: "All relevant information will be provided to stakeholders prior to the general meeting in a timely manner." in order to foster discussion and better enable the stakeholders to provide input and hold the Board members accountable.[17] The Board has not followed this recommendation.

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[13] *The Workers' Compensation Act, 1979*, ss. 21.1(2).
[14] James E. Dorsey, *Saskatchewan Workers' Compensation Board Review 2000: Recurring and Current Administrative Issues*, pp. 84-93.
[15] *The Workers' Compensation Act, 1979*, ss. 21.1(4) and 21.1(5).
[16] Government of Saskatchewan, *The Workers' Compensation General Regulations, 1985*, c. W-17.1 Reg 1, s. 22.2.
[17] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 12.

Recommendation: The Board organize the annual meeting so that it is a true public information and accountability session. That the Board post all information to be disseminated at the annual meeting on its website two weeks before the meeting; hold the annual meeting in the Spring before the vacation months of July and August; and provide adequate time at the meeting for workers and employers and their representatives to speak and ask questions.

Recommendation: The Lieutenant Governor in Council amend the regulations to require the Board to hold a true public information and accountability session.

2.06 Conflict with Others

The period since the last Committee of Review has been marked by recurring conflict between the Board and others.

There was an open and acrimonious conflict with the Provincial Auditor over the disclosure and reporting of financial information, which led to a public conflict before the Standing Committee on Public Accounts as the Board challenged the authority of the Provincial Auditor and the Standing Committee to review its accounts. In the end, the Board restated its financial statements.[18]

The Board has had a strained relationship with the Ombudsman, but recognizes there is a need for individuals to have recourse to someone to address issues of fairness in its actions and decision making. It established its internal Fair Practices Office, discussed later in this report.

The Board employs and relies heavily on the professional judgment of physicians. The College of Physicians and Surgeons of Saskatchewan is the statutory agency that regulates the practice of medicine in the public interest. It has a duty to everyone under the care of a physician. It receives and must investigate complaints. The College reported to the Committee that its experience with the Board is that: "Rather than seeing itself as an agency with an obligation to work collaboratively with other social agencies, it tends to act as if it is "set apart" from all other agencies." It sees the Board acting in a "manner that is not sensitive and responsive to the legitimate needs and obligations of other agencies".[19]

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[18] James E. Dorsey, *Saskatchewan Workers' Compensation Board Review 2000: Recurring and Current Administrative Issues*, pp. 51-61.

[19] College of Physicians and Surgeons of Saskatchewan, *The Submission of The College of Physicians and Surgeons of Saskatchewan to The Workers' Compensation Act Committee of Review*, August 27, 2001.

Conflict between the Board and others was not restricted to public persons. In 1998, the Board, each Board member and the Executive Assistant to the Board, a person reporting directly to the Board members, sued two injured workers for publishing statements in a brochure, letter and website that were alleged to have been libelous.[20] The statements were similar to many made in condemnation of Board practices, decisions and personnel in written statements to and before the Committee of Review over the years. The injured workers cannot sue the Board members or the medical profession, but the Board can sue the workers.

Of particular concern to the Committee is that the Board and the Office of the Worker's Advocate have had, what some describe as, a dysfunctional relationship. This Committee does not assign responsibility, but the relationship has been unhealthy and contrary to delivering effective service to workers and employers.

Recommendation: The Board and the Office of the Worker's Advocate establish a formal mechanism for meeting face-to-face to discuss matters of concern with a view to improving the administration of the workers' compensation program. The mechanism is to include keeping minutes, recording what has been discussed, decided and committed.

Recommendation: If the Board and the Worker's Advocate have not established a formal mechanism by the date of the Board's 2002 annual meeting, the Board explain at that meeting why such a mechanism has not been established and, after that meeting, the Minister assist them to establish such a mechanism.

Recommendation: The Board report each year at the annual public meeting on its relationship and communication with the Office of the Worker's Advocate.

[20] Court of Queen's Bench Action No. 448 of 1998.

3. EXCLUSIVE POWER, FAIRNESS AND APPEALS

3.01 Independent, Exclusive Power

The Board has independent, exclusive power to make life-altering decisions for individuals and families and decisions that may profoundly affect employers.[21] It has extensive power to fulfil its exclusive authority.

Its decisions are to be made "upon the real justice and merits of the case and it is not bound to follow any legal precedent".[22] Of course, it must adhere to the statute, regulations and policy directives it adopts and publishes for the application of the Act. It cannot disregard its own law and it is expected to treat like cases alike, not make decisions based on caprice, sentimentality, dislike for a person or any other unfair reason. It is to make decisions based on the justice and merits of the case under its statute, regulations and policy directives. The statute, regulations and policy directives are published so all persons will know the rules and standards that direct the Board in exercising its exclusive power and authority.

3.02 Organizational Focus

The staff of the Board seems to be suffering from change fatigue. Injured workers experience frequent changes in the Client Service Representative who is assigned to deal with the injured worker and must become familiar with them and their injury. The worker and employer stakeholders are skeptical of recurring, grand announcements by the Board that signal administrative expenditures but are not followed by demonstrable improvements in service.

The focus of an organization reveals its priorities and where its time and energies are directed. In 1996, the Board issued the beginnings of a strategic plan in a document entitled "Strategic Directions". In 1997, it set nine strategic intents with critical success elements. In 1998, it identified 180 specific actions and published a plan - "Strategic Planning: A Framework for Action". In 1999, it reported implementation of 31 action plans in "Implementing the Strategic Plan: The 1999 Report".

At the same time, it announced seven short-term initiatives - (1) business process simplification; (2) information technology initiatives; (3) performance management; (4) balanced scorecard; (5) public image; (6) cultural change; and (7) Y2K readiness. The Y2K readiness was successfully completed. The other six are considered by the Board to be "the most urgent areas where the WCB must act in order to achieve the vision, mission, values and strategies in our Strategic Plan".[23] In 2000, the Board announced a planning cycle for the Board.[24]

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[21] *The Workers' Compensation Act, 1979*, s. 22.
[22] Ibid ss. 25(1).
[23] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 7.
[24] *Implementing the Strategic Plan: The 2000 Report*, p. 6.

The business process simplification project is ongoing. The balanced scorecard is a measurement tool intended to clarify, communicate and measure strategy. It is a balanced measurement of financial and other perspectives, such as client service satisfaction and timeliness of internal processes. The Board has a scorecard intended to track sixteen measures in five areas – people effectiveness, process effectiveness, customer service, financial integrity and recognized leadership. The balanced scorecard initiative is still being implemented. There is no business or operational plan to make the strategic intentions part of the daily working of the Board. There is no formal structure for ongoing evaluation of the Chief Executive Officer, vice-presidents, directors and managers.

The past pattern of change on top of ongoing change is not advancing the interests of workers, employers and Board employees.

Recommendation: The Board adopt a deliberate focus and clear plan to stabilize the environment within the Board and relationships between the Board and workers and employers.

3.03 Client Service

The 1996 Committee of Review identified that it was necessary for the Board to make continued efforts to improve client services.[25] It identified the components of effective client service as including: treating people with dignity and respect; timely decisions and payments; effective training for CSRs, especially sensitivity training and seminars on the principles of natural justice; effective communication; providing explanations and reasons for decisions; a supportive organizational culture; mentoring staff; availability of staff for clients; manageable workloads; effective training for managers; and complete file development.

The Board responded as follows in a report to the Minister of Labour:

> The Board is in full agreement with the Committee of Review that each component is essential for the provision of effective client service. Regrettably, this recommendation implies that the WCB does none of these things when, in fact, the WCB's regular client satisfaction surveys of injured workers and employers have measured a very high level of satisfaction with service.
>
> While the Board and its administration strive for excellence, it must be noted that the WCB's re-organized structure has been functioning for less than two years. The first and largest department to be re-organized, Claims, became the Client Services department.[26]

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[25] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 36.
[26] *Saskatchewan Workers' Compensation Board 1996 Committee of Review An Analysis*, Section 3, p. 18.

In 2001, the Board reported it:

> "... began re-directing its focus to the question of improving service levels. Internal processes were subjected to detailed review, and we began the rollout of a new delivery model.
>
> This year's activity was just the beginning of what will be another work-in-progress. Quality of service will have to be our focus of attention for 2001 and well beyond, if we are to fully satisfy stakeholder expectations."[27]

When confronted with announcements and promises for improvements, the stakeholders and Committees of Review adopt a wait-and-see attitude. The Board has not published the details of the service model it has developed or how it will determine the accomplishments and disappointments of the service model.

The 1998 *Citizens First* report, favoured a public sector service model that identifies service needs and expectations; removes barriers to ease access to service; improves the five key elements driving service - timeliness, knowledge/competence, courtesy/comfort, fair treatment and outcome; identifies perceptions of service quality; and sets priorities for improvement.[28]

The Board relies on commissioned surveys of workers and employers satisfaction with the Board's service. The Board reports high, often 80% or 90%, aggregate satisfaction with service. There is widespread belief that the published survey results mask much lower levels of satisfaction with delivery of service in more complex situations. The surveys do not include persons whose claims are rejected. The survey response rates are quite low. The sample size is usually low - only 2,000 in 1998. Only new claims reported and accepted are surveyed.

Submissions and statements to the Committee have convinced us that service failures are more frequent than what is disclosed in the surveys heralded by the Board. For example, phone calls to the Board are not answered; differences of opinion escalate into personal and other conflict; and injured workers have to adjust their life schedules to accommodate the convenience of the Board.

Recommendation: The Board implement a system to monitor and measure all adjudication in the administration of the Act, regulations and Board policy.

Recommendation: The Board implement a comprehensive training program for Client Service Representatives and other employees involved in primary adjudication.

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[27] *Saskatchewan Workers' Compensation Board Annual Report 2000*, p. 7.

[28] Citizen-Centred Service Network and the Canadian Centre for Management Development, *Citizens First*, Erin Research Inc. (October 1998). Government of Canada website: www.ccmd-ccg.gc.ca/pdfs/cit-firstf.pdf.

3.04 Fairness

The Board is the only tribunal the Saskatchewan Legislative Assembly has expressly told to act fairly and reasonably. It must "treat workers and dependants in a fair and reasonable manner".[29]

Despite all the change and initiatives since 1995, the Committee heard from many persons that the Board has not acted fairly in the past five years. We heard individual accounts that suggest the Board did not act fairly or reasonably. We do not know if these accounts are isolated incidents or symptomatic of a larger problem or culture within the Board.

The Board does not have an internal mechanism that monitors and reports to the three members of the Board, and the stakeholders, the extent of regular compliance with its duty to act in a fair and reasonable manner. Because of organizational changes to broaden the scope of communication for managers, eliminate the Senior Claims Officer and undertake extensive, continuing organizational change, the managers do not have the time to perform file reviews, or serve as an accessible office for informal reconsideration.

Individual injured workers want, and should have access to redress for adverse decisions. They report disrespectful treatment. They report being treated as thieves not as mature, honest injured workers with families to support. They report that they are unable to get easy access to their caseworker or Client Service Representative (CSR), who are constantly being reassigned. They report they must be available at the call of the Board, but their calls to the Board are not answered.

Injured workers want to be able to hold the Board and its employees accountable, just as the Board constantly holds them accountable for their action or inaction. Some want access to the courts so they can hold the Board and its members and individual employees accountable.

Injured workers and their advocates unanimously report that, in their experience, the Board will latch onto any statement by them, a Board physician, or a treating physician that supports denial or limiting entitlement to benefits, regardless how many or how strong or the source of statements supporting entitlement or continuation of benefits.

Injured workers and physicians speak of "Fortress WCB" with a process which often does not give the benefit of belief to the worker or their physician. They believe the Board's first response to an injury is not to support, but to challenge, an injured worker.

In 2000, the Board decided to establish a Fair Practices Office within the Board to assist clients with disputes and complaints by steering them through the process to the right place. It advertised the position in July 2001. The Fair Practices Office will also investigate complaints and tabulate statistics that can point to the need for process and/or policy changes. This was an implicit recognition that existing systems were not adequate and more had to be done by the Board to fulfil its duty to be fair and to act in a reasonable manner.

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[29] *The Workers' Compensation Act, 1979*, ss. 21.1(1)(a).

The Committee believes more must be done to improve and reinforce the Board's duty of fairness and instill confidence in workers and employers that the Board is a fair decision making tribunal.

Recommendation: The Minister request the Ombudsman conduct a fairness audit of the Board. The scope of the audit is to be determined by the Ombudsman, after consultation with the Board, but will include specific attention to the Board's administration of the following sections of the Act: s. 50 (pre-existing conditions); s. 51.1 (duties of workers); s. 60 (request for medical review panel); s. 68 (determining loss of earnings / estimating and deeming future earning capacity); ss. 25(1) (justice and merits of the case); ss. 25(2) (benefit of the doubt); ss. 25(3) (reconsideration); ss. 104(4) (suspension and termination of benefits) and ss. 104(5) (dependant spouses).

3.05 Appeals

Without an internal quality assurance program, the Board's practice is to shift the burden to workers, dependants and employers to know about, and to pursue, a remedy if there is a mistake or service failure. Dissatisfied persons are informed about their right to appeal and sometimes directed to appeal when they bring concerns to the initial decision-maker.

There is no appeal to an independent body from decisions of the Board, except to a Medical Review Panel (MRP), for which an applicant must first appeal to the Board. From January 2000 to September 2001, the Board received 54 applications for a MRP. The Board accepted 24, rejected 27, considered two to be premature and one was pending. The Board does not have any statistics prior to 2000.

The word "appeal" does not appear in the Act or regulations. The sole legislative statement that the Board may provide a review mechanism is that "the board may reconsider any matter that it has dealt with or may rescind, alter or amend any decision or order it has made".[30]

The Board has a process for internal review and reconsideration that has two steps. The first is to an internal Appeals Committee established in 1985 following recommendations of the 1982 Committee of Review. The Board issued an order establishing and directing the operation of the Appeals Committee and issued a policy and procedure in 1996. The Appeals Committee reports to the Chief Executive Officer.

By an unpublished administrative decision in 1998, the Board changed its policy and procedure. It directed that one, not two or three, members of the Appeals Committee are to decide each case. They are to confine their review to the issue identified by the worker or employer and are not to do a full quality review of the case, as had been the practice.

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[30] *The Workers' Compensation Act, 1979*, ss. 22(3).

The second level of review is before the three members of the Board. In recent years, the chairperson has not routinely participated in these reviews. He participated in less than six each year. The Committee understands the current chairperson is participating in more internal reviews. There is an untested difference within the stakeholder groups about whether the Board members are empowered to decide these reviews in this manner. If a legal challenge were successful, the consequences for all past decisions could overwhelm the workers' compensation program.

Apart from this practice and despite the statements to the contrary by Board members, there is continuing belief by the stakeholders that Board members make decisions based on summaries of files by staff, who may be members of the Appeals Committee, managers or Client Service Representatives seconded to fill-in for regular staff on leave. It is common practice for the Board members to include in their deliberations information and opinions obtained from Board staff, which are not disclosed to affected workers prior to making the decision.

Another concern, based on experience, is that the members of the Board on a review will make an initial decision on an issue and, as a result, deny an appeal on that issue. This happens when a worker or employer appeals on issue A and makes a submission on that issue. The Board members decide issue A and then go on to also decide issue B. The Board members, in effect, do primary adjudication on issue B without complete investigation. The affected worker or employer did not know issue B was going to be addressed and did not make submissions on the facts, law or policy. The affected worker or employer who does not agree with the decision has no one to appeal to on issue B.

Nine of the Canadian provincial workers' compensation programs provide for some form of external appeal tribunal reviewing decisions of workers' compensation boards. This has been the evolved response to persistent concerns that the institution holding exclusive authority and power is not acting, or seen to be acting, fairly when making initial decisions and reviewing those decisions. Individuals want access to independent decision-makers to seek fairness in their individual circumstances.

Past Committees of Review have resisted adopting this solution despite persistent and recurring complaints about individual decision-making at the Board. The Committees of Review expressed continuing confidence in the Appeals Committee and final review by the members of the Board.

The total volume of internal appeals has increased significantly since 1995.[31]

[31] Workers' Compensation Board, *A Report on 2000 Appeals at the Saskatchewan Workers' Compensation Board.*

Figure 19: Appeals by Category (1995-2000)

	1995	1996	1997	1998	1999	2000
Appeals Committee	467	714	693	892	813	873
Board Members	189	221	223	252	212	201
Total	656	935	916	1,144	1,025	1,074

In the face of an increase in the number of appeals, the Board chose to compromise the system endorsed by past Committees of Review by limiting the number and role of the Appeals Committee and effectively removing the Chairperson from participating in reviews at the final step. At the same time, the Board is seen as a biased gatekeeper to the Medical Review Panel.

This Committee has heard more representations than ever before that the time has come for the creation of an external appeal tribunal in Saskatchewan. After careful deliberation, the Committee has decided to recommend another course that is intended to restore the integrity of internal review and to avoid some of the potential problems that accompany establishing a separate external appeal tribunal.

Recommendation: Amend the Act to provide that appeals to the Appeals Committee are to be decided by two or more members of the Appeals Committee, which will continue to report to the Chief Executive Officer.

Recommendation: Amend the Act to include the addition of a full-time Appeals Commissioner as a member of the Board. The Appeals Commissioner is to be appointed for a term of at least four years and may be re-appointed.

Recommendation: Amend the Act to provide that the Appeals Commissioner, or in his or her absence the Chairperson, plus a Board Member representative of workers and a Board Member representative of employers must participate in each internal appeal to the Board Members and in each decision on a request for the Board to provide a Medical Review Panel.

It is the Committee's expectation that the process to recruit, select and appoint the Appeals Commissioner will attract an individual whose primary interest and talents are in adjudication, the administrative application of the principles of procedural fairness and writing reasoned decisions.

It is the Committee's expectation that under the leadership of the Appeals Commissioner the appearance, demeanour and operation of the internal appeal process will appear to, and in fact, provide more independence in its processes and final decisions.

It is the Committee's expectation that under the leadership of the Appeals Commissioner the Board will adopt worker friendly practices and hold hearings in places that have a worker friendly environment.

It is the Committee's expectation that the Appeals Commissioner will provide leadership in policy review, stakeholder consultation about proposed policies and in training and mentoring staff on decision-making.

It is the Committee's expectation that the full-time leadership of the Appeals Commissioner will relieve the representative members of the Board from some of the burden they have been carrying for internal appeals, which has consumed 90% of their time. This should enable them to devote more time to policy approval, Board governance and maintaining contact with organized labour, employers and injured workers.

4. TITLE AND SCOPE OF COVERAGE

4.01 Title

As in past years, there were submissions that the Act should be re-named. The Committee does not see any need to rename the Act.

4.02 "Worker" and "Employer"

The Workers' Compensation Act, 1979, applies to a "worker" and an "employer" as defined in subsections 2(t) and (f). The definition of "worker" allows the Board to deem a person outside the definition to be a worker. It does not allow the Board to deem a person to be an employer. The Board has submitted it should have this power to express more clearly its authority. There have been no specific problems encountered by the Board and the Committee is not satisfied the Board requires this power.

Reeves, councillors and secretary treasurers of rural municipalities are deemed to be "employees" and the Act applies to them and other employees of rural municipalities in section 5. The Board submits using the term "worker" would be more appropriate. The Board has not encountered any specific problems and the Committee does not see any need to make a change. Deeming these elected officials to be employees creates the legal relationship that underlies enabling them to workers.

4.03 Common Law Spouse

Section 88 entitles dependent common law spouses to receive benefits in certain circumstances. A "common law spouse" is defined. If the deceased worker maintained the common law spouse "for two years or more" the spouse will be entitled to benefits. If the period was less than two years, the common law spouse will be entitled to benefits if "the worker and common law spouse were the birth parents or adoptive parents of a child".

The 1996 Committee of Review recommended that the two-year period be amended to use a one-year period, which is used in the *Income Tax Act* to establish a common law relationship.[32] The Board agreed this corrected an unfair situation. The net benefits of a worker in a common law relationship are reduced based on the *Income Tax Act*, but the common law partner recognition is not equivalent. The Board urged this Committee to make the same recommendation.

Recommendation: Amend section 88 to change the two-year period to one year.

[32] *Income Tax Act*, RSC. 1985 c.1 (5th Supp), ss. 248(1).

4.04 Contractors

The responsibility for ensuring there is coverage and paying for coverage for contractors and their employees was raised in several submissions. The underlying problem is a lack of understanding and enforcement of the existing obligations under the Act.[33]

Recommendation: The Board diligently communicate and enforce these provisions of the Act.

4.05 Excluded Industries - School Teachers and Industrial Hog Operations

The Act presumptively applies to all employers and workers engaged in all industries except those specifically excluded. Some are expressly excluded by the Act. Certain workers and employers are currently excluded by regulation.[34]

School teachers are excluded.[35] Public school teachers have a private scheme of disability coverage. However, that scheme does not apply to substitute teachers. The Saskatchewan School Trustees Association submitted that the Act should be extended to all teachers. The Saskatchewan Teachers' Federation submitted it should be extended to substitute teachers.

Under the Act, excluded industries, employers and workers may apply for coverage. School Boards and school teachers may apply to the Board for coverage.

There is one minor inconsistency in the provisions allowing excluded persons to apply for coverage. Section 12(1) provides that an excluded "industry, employer or worker" may apply to be brought within the scope of the Act. The process provides for the persons directly affected to be notified and heard. Section 12(2) provides for notice to be given to workers or their union on the application of an "industry or employer". There is no comparable provision for notice to an employer on the application of a worker.

Recommendation: Amend section 12 to provide for notice to an employer on the application of a worker.

The industries of farming and ranching are excluded from coverage of the Act.[36] New and intensive livestock production facilities have unique environmental and occupational hazards and safety issues that are qualitatively different than in traditional farming and ranching. The Committee heard representations that industrial hog operations should be compulsorily covered by the Act.

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[33] *The Workers' Compensation Act, 1979*, s. 9, 132, 133,134.
[34] *The Workers' Compensation Act Exclusion Regulations*, c. W-17.1 Reg. 2.
[35] *The Workers' Compensation Act, 1979*, ss. 10(e).
[36] Ibid ss. 19(d).

On average, large hog operations producing over 6,000 hogs have five or six employees. Smaller operations producing from 2,000 to 6,000 hogs usually have two employees. In 1998, the Board invited hog barn operators to consider the advantages of voluntary coverage. For 2001, 44 hog barn operations have voluntarily opted for coverage. The Act allows the Board to initiate extension of compulsory coverage to excluded industries.[37]

Recommendation: The Board examine and express an opinion on whether all or some class(es) of industrial hog operations should be brought within the scope of the Act. If the Board is of the opinion that some or all industrial hog operations should be brought within the scope of the Act, notify the Lieutenant Governor in Council under subsection 11(1) of the Act.

4.06 Suing Physicians and Surgeons

Compulsory or voluntary coverage by the Act provides both employers and workers with immunity from suit for negligence or other acts causing injury. The Board members have the final decision-making authority on whether an action for recovery of compensation is barred by the Act.[38]

An issue arises when the negligent person is a physician or surgeon engaged in his or her profession. In this situation, an injured worker who suffers as a consequence of professional negligence may have no common law remedy against the professional. Some argue immunity from suit for professional negligence is not necessary to maintain the efficacy of workers' compensation and that there is no historical basis to extend this immunity to professional negligence.[39]

The frequency of preventable medical errors by physicians and surgeons was revealed by the U.S. Institute of Medicine in its 1999 report *To Err Is Human: Building a Safer Health System.*[40] The College of Physicians and Surgeons of Saskatchewan appeared before the Committee and submitted that workers should have the right to sue physicians and surgeons who may exacerbate work-related injuries through negligent action or inaction. The College submits the shield from litigation should not extend to physicians and surgeons. The Committee did not hear from the Saskatchewan Medical Association.

Recommendation: The Government review whether the statutory bar to litigation against physicians and surgeons who allegedly exacerbate the injuries of injured workers through negligent action or inaction should be removed.

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[37] *The Workers' Compensation Act, 1979*, s. 10.

[38] Ibid s. 168.

[39] See *Lindsay v. Workers' Compensation Board* (1997), 161 Sask. R. 182; [1997] S.J. No. 718 affirmed by the Saskatchewan Court of Appeal. Leave to appeal to the Supreme Court of Canada denied [2000] 1 S.C.R. 59; [2000] S.C.J. No. 4; and *Kovach v. Singh* (1996), 84 B.C.A.C. 176 and [1998] B.C.J. No. 1245.

[40] Linda T. Kohn, Janet M. Corrigan and Molla S. Donaldson, editors, Institute of Medicine, *To Err is Human: Building a Safer Health System*, National Academy Press, February 2000.

5. COMPENSATION

Compensation is payable with respect to work-related death or injury, which includes a disabling or potentially disabling condition caused by an occupational disease.[41] Compensation is payable to a worker, or a member of a worker's family dependant upon the worker's earnings at the time of the death or injury.[42]

The Board has a duty to "arrange to provide any medical aid or treatment that may be required in the circumstances as a result of injuries to workers".[43] The majority of claims do not involve any loss of wages or time away from work.

5.01 Fatalities

Figure 20: Fatality Claims (1995-2000)

	1995	1996	1997	1998	1999	2000
Accepted	22	24	34	27	31	35

The Act fixes an amount to "assist with necessary expenses of the death of the worker such as burial".[44] The current amount is $5,755. This amount is less than the current cost of a funeral. The amount should exceed the average cost of a funeral in order to assist with necessary expenses beyond burial and beyond payments to funeral directors.

Recommendation: Amend subsection 82(1) of the Act to increase the amount to $10,000, which is to be adjusted annually as in subsection 82(3).

5.02 Presumption When Worker Found Dead at Work

Section 30 of the Act states:

> 30 Where a worker is found dead at a place where he had a right to be in the course of his employment, it is presumed that his death was the result of injury arising out of and in the course of his employment.

[41] *The Workers' Compensation Act, 1979*, ss. 2(c), (k), (r.2).
[42] Ibid ss. 2(b), (e), (l), (r).
[43] Ibid ss. 21.1(1)(b). See also s. 106, 109, 112, 113.
[44] Ibid ss. 82(2)(a).

Prior to 1979, this section included the words "unless there is evidence sufficient to rebut the presumption." In 1992, the Committee of Review received an opinion from the Civil Law Division of the Department of Justice that the Board was correct in taking the position that the section 30 presumption could be rebutted. The Committee said it concurred with that opinion and added: "However, the Committee would like to stress that the onus is on the Board to prove the contrary and that, in dealing with this section, the Board must keep in mind that the benefit of the doubt must be given to the injured worker."[45] In 1999, the Saskatchewan Court of Appeal decided the presumption could not be rebutted.[46] This Committee has decided this is a too inflexible approach to the circumstances of a worker being found dead at work.

Recommendation: Amend section 30 to add the words "unless the contrary is shown."

5.03 Permanent Functional Impairment (PFI)

> 67(1) The board shall establish a rating schedule which shall be applied in calculating the amount of an award for a permanent functional impairment provided for in that schedule arising out of an injury which is to be, at least $1,100 and not more than $22,600.

The Board's rating schedule, which was established in 1980, has not been adopted as a policy directive and has not been made generally available to the public. Board Medical Officers do the ratings.

Figure 21: Permanent Functional Impairment Ratings (1996-2000)

	1996	1997	1998	1999	2000
Number	327	371	252	230	146
Average %	9.42	10.05	9.26	9.38	7.52
Total Cost	**$784,963**	**$989,865**	**$638,608**	**$548,758**	**$295,801**

North American workers' compensation programs and disability insurers do clinical rating for PFIs. The generally accepted permanent impairment rating schedule is the *Guides to the Evaluation of Permanent Impairment* (American Medical Association Guidelines), currently in its 5th edition (published March of 2000).

Recommendation: Amend section 67 to require the Board to use the current edition of the AMA Guidelines.

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[45] *Report of The Workers' Compensation Act Review Committee August 1992*, p. 25.
[46] *Henry v. Saskatchewan (Workers' Compensation Board)* [1999] S.J. No. 114.

Since September 1, 1998, the Board does not give a PFI rating for disfigurement unless it is on the hands, face or neck.[47] Disfigurement is part of the *Guides to the Evaluation of Permanent Impairment*, Chapter 8.[48] Once section 67 is amended, the Committee expects the Board will revoke and revise its policy directives and revert to the practice in effect prior to September 1, 1998.

Figure 22: Cosmetic Permanent Functional Impairments (1991-2000)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Claims	5	35	31	27	16	34	34	34	24	26
Average	$3,717	$3,361	$3,652	$1,450	$2,709	$2,211	$2,019	$1,313	$1,966	$2,065
Total	$18,587	$117,647	$113,193	$39,148	$43,437	$75,169	$68,651	$44,656	$47,180	$53,687

Saskatchewan has the lowest maximum compensation for PFI. In other provinces, the range is from $38,100 (PEI) to $107,380 (Man.). Alberta is $66,513. The PFI benefit is a one-time payment.

Recommendation: Amend subsection 67(1) to provide for a minimum of $2,200 and a maximum of $45,200.

5.04 Independence Allowance

> 67.1 If a worker sustains a permanent functional impairment that, in the opinion of the board, is severe, the board may annually award to that worker an independence allowance in any amount that the board, in its discretion, determines up to 10% of the maximum amount of an award established pursuant to section 67.

An increase in the maximum for a one-time PFI payment does not mean there has to be a corresponding increase to the independence allowance. However, without an amendment to section 67.1, there will be an automatic increase.

Recommendation: Amend section 67.1 to substitute 5% in place of 10%.

5.05 Annuity

Subsection 74(3) requires the Board to pay accumulated capital and interest to a worker when the amount is less than $20,000. The Board submits that workers should be allowed to elect to receive an annuity rather than a lump sum payment, even if the total is less than $20,000.

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[47] *Board Policy Manual*, POL09/98.

[48] Linda Cocchiarella and Gunnar B.J Andersson, *The Guides to the Evaluation of Permanent Impairment*, Fifth Edition – (American Medical Association), November 2000.

Recommendation: Amend subsection 74(3) to allow the worker to choose to receive either an annuity or a lump sum payment when the accumulated capital and interest is $20,000 or less.

5.06 Maximum Wage Rate

The Act provides for loss of earnings to a maximum gross wage. The maximum has been $48,000 since 1985 for workers injured after September 1985. This is a maximum gross weekly wage of $923.08.[49] The maximum compensation paid to those workers is 90% of an adjusted gross wage after deduction of "probable" income tax, Canada Pension Plan payments and unemployment insurance premiums.[50] The maximum weekly amount, in October 2001, for an injured worker with single individual status is $584.85. For a married injured worker, **$618.15** is the maximum weekly amount.

For workers injured before September 1985, the compensation is 75% of gross wages with the maximum adjusted annually.[51] That amount has increased to $46,000 in 2001.[52] The maximum weekly wage is $884.62. Seventy-five percent is **$663.47**.

While the maximum has risen from $33,000 to $46,000 from 1985 for workers injured prior to September 1985, the maximum for workers injured after 1985 has not increased. For some, the change from 75% gross to 90% net decreased their compensation.

Throughout the same period, the minimum compensation payable has been one-half the average weekly wage as of June in the preceding year.[53] For 2001, the minimum weekly compensation is $282.03. With the minimum constantly increasing as the average industrial wage increases and the maximum remaining constant, the range of benefits has been narrowing.

Another event has occurred in 2001. The average weekly wage is determined each year by Statistics Canada. In 2001, Statistics Canada changed its methodology to base its data on the North American Industrial Classification System (NAICS) rather than the 1980 Standard Industrial Code (SIC-80). The NAICS is used by the United States and Mexico.

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[49] *Board Policy Manual*, POL09/98.
[50] *The Workers' Compensation Act, 1979*, ss. 68(3).
[51] Ibid s. 38.
[52] Board Policy Manual, POL14/2000.
[53] *The Workers' Compensation Act, 1979*, s. 76.

This change alters the estimation of the number of employees employed by province. For Saskatchewan, the difference is an increase of 2,772 (0.76%). It also alters the calculation of the average weekly wage for 2000, which is used to calculate compensation levels for 2001. For Saskatchewan, the SIC-80 average weekly wage for June 2000 is $564.05. The NAICS average weekly wage for this same month is $593.80, a difference of 5.3%. This change resulted in an increase in minimum compensation in 2001 from $282.03 to $296.90, a difference of $14.87 per week. This change will likely contribute to increasing the maximum for workers injured prior to September 1985 to $47,000 in 2002.

The 1996 Committee of Review recommended pegging the maximum wage rate for workers injured after September 1985 at 185% of the average industrial wage.[54] That was the relationship between the average industrial wage and $48,000 in 1996. For 2001, it had fallen to 170% of the 2000 average industrial wage.

In 2000, using 185% of the average industrial wage, the maximum wage rate would be $57,123.56 using NAICS or $54,261.61 using SIC-80. The common practice is to round the amount to the nearest $100, so the amounts would be $57,100 (NAICS) and $54,300 (SIC-80).

Using the relationship of 170% of the average industrial wage and applying it to the new NAICS average weekly wages for 2000, the maximum wage rate would be $52,491.88.

The Committee has decided it is time to increase the maximum wage rate and to enact a mechanism for the maximum to be regularly reviewed and adjusted upward, if necessary. Rather than use the average industrial wage, the Committee has determined the maximum should be set in a manner that ensures a fixed percentage of injured workers have maximum wage coverage. We recommend adopting the proven approach that has been used in section 38 for workers injured prior to 1985.

Recommendation: Amend section 38.1 to establish a maximum wage rate, the calculation of which would be based on an annual review of the salaries of all time loss claims for the period July 1 to June 30 of the preceding year. The maximum wage rate is to be set so that 94% of time loss claimants would be eligible for compensation equivalent to their salary. The maximum wage rate is to be rounded up to the nearest $100. The maximum wage rate is not to be reduced. Using this method, the maximum insurable and assessable wage rate for 2002 would be $51,900.

It has been argued that a strict reading of sections 68 to 70 of the Act means that the maximum applies to the net amount paid to the worker and not to the gross earnings. This is not the intention of the legislation.

Recommendation: Amend the Act to expressly state the maximum wage rate is the upper limit for gross earnings for purposes of calculating benefits.

[54] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 54.

5.07 Payments of Compensation

The Board establishes a schedule of earnings each year that it uses to calculate the probable deductions from gross earnings to arrive at a net amount of which it then calculates 90%.[55] The Board does not publish this schedule.

Recommendation: Amend the Act to require the Board to publish the annual schedule setting out a table of earnings for the purposes of calculating gross earnings minus probable deductions.

Injured workers receiving compensation payments from the Board often do not understand why the amount they receive has no apparent relationship to what they received in their periodic pay prior to the injury. Often they are unable to receive an explanation from their Client Service Representative or any other person at the Board. Injured workers should receive a "pay statement" with each cheque.

Recommendation: Amend the Act to require the Board to issue with each compensation cheque to a worker an explanation of the calculation of the worker's gross earnings and the net amount of the compensation.

5.08 Casual, Part-time and Seasonal Workers

Determining the average weekly earnings of casual, part-time and seasonal employees in a fair and reasonable manner has been an ongoing issue. The 1996 Committee of Review made recommendations on this question. The matter had been before the courts since 1996.

An oilfield worker had his initial average weekly wage set at his 1988 earnings at the time of injury, which were $730.96 gross wages per week. He had worked for over seventeen weeks and had earned a total of $12,599. In subsequent proceedings in May 1994, the Board members recalculated his average rate as 1/52nd of $12,599 or $242.29 per week. This was below the minimum compensation so he was compensated at the minimum rate.

The Board members affirmed this decision in May 1995. The worker applied for judicial review to the Court of Queen's Bench. The Board members reviewed the case and met with the worker and his lawyer in December 1996. They found that the worker's earnings at the time of his injury were not "regular" earnings under subsection 70(1)(b). The members decided he did not have regular earnings and reaffirmed their May 1994 calculation.

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[55] *The Workers' Compensation Act, 1979*, ss. 68(4).

The Court of Queen's Bench disagreed. It held that the reference to the rate of pay in subsection 70(1)(b) is a reference to the method of payment and not to the regularity of employment. "I am unable to find any provision in the Act which allows the Board to arrive at a lesser sum on the basis that the employment was seasonal, part-time or casual."[56] The Board appealed. The Saskatchewan Court of Appeal restored the Board's decision because the Board's decision was not "patently unreasonable". Leave to appeal to the Supreme Court of Canada was denied in August 1998.

A request from management for a policy direction on section 70 has been before the Board members since September 1999.

The Court of Queen's Bench plain language reading of subsection 70(1)(b) is consistent with the 1992 Committee of Review's response to a Board inquiry for direction on this issue. The Board said:

> The current [s. 70(1)] was introduced into the Act in 1974 and was really the want of the Board of that time. The Board was looking for a much more simple method of establishing average weekly earnings.
>
> **c. Problem**
>
> The current legislation provides that if a worker suffers injury on the first day of employment compensation may be calculated on the rate of hire if this is greater than the worker's average weekly earnings. In the 12 months prior to injury, e.g. 40 hour work week at $15.00 per hour.
>
> The Board is concerned that in some situations, including workers who work, seasonally, the rate of hire far exceeds the worker's average weekly earnings in the year prior to injury and, therefore, is not a true reflection of the worker's historical earning pattern, but rather is over compensation.
>
> A second concern is that in such cases it is often impossible to remove or substantially reduce long-term earnings loss. The Board's Vocational Rehabilitation Department finds it very difficult to retrain or otherwise find alternative employment for workers with limited skills to permit them to earn the wage they were [at] when injured.
>
> Actual case examples will be available during the Board's presentation. The Board would very much appreciate the Committee's views on this matter.

[56] *Bax v. Saskatchewan (Workers' Compensation Board)* [1997] S.J. No. 406, 15.

The Committee's reply was succinct and explicit – average weekly earnings is "the greater of" either (a) or (b) in subsection 70(1). Its recommendation was that the Board ensure its policies "reflect and are consistent with subsection 70(1)" of the statute "as written". The Committee appears to have been more willing than the Board to accept the cost and consequences of the trade-off.

Using averages will benefit some and disadvantage others. The Board's focus on "regular" reduces compensation for those considered to have been over-compensated. It will not increase compensation for those considered to have been under-compensated.

The Board told this Committee that it continues to "experience difficulties in devising reasonable policies to calculate wage loss benefits for both the short-term and long-term payments that must be made". It said: "The Board welcomes any views or findings of the Committee that may help address this issue at a policy level, if not through amendment to the legislation."[57]

The front line decision-makers at the Board require policy direction on this issue. Currently, Client Service Representatives and managers use and apply an unpublished guideline developed in the 1980s and referred to "on the floor" as "the Bible." It is time for the Board to publish a policy directing the administration of section 70.

Recommendation: The Board adopt and publish a policy on calculating the average weekly earnings of casual, seasonal and part-time workers before the 2002 annual public meeting.

For the casual worker, comparable wages of a regular worker may be a more equitable benchmark than prior earnings of the worker. An example is a nurse who has worked part-time, full-time and casual throughout her career, but is injured at a time when she is working casual. The Board proposes that there be a simple amendment, changing "and" to "or" in subsection 70(4) to restore it to what it was prior to 1974.

> 70(4) Where the worker was not available for employment for the full period of twelve months immediately preceding the commencement of his loss of earnings resulting from the injury, **and** where by the casual nature or the terms of his employment it is inequitable to compute his average weekly earnings as specified in subsection (1), the average earnings as determined by the board that were earned by a person regularly employed in the same grade of employment shall be taken into consideration.

Recommendation: Amend subsection 70(4) to substitute "or" for "and".

[57] Saskatchewan Workers' Compensation Board, *Submission to the Committee of Review September 2001*, p. 5.

5.09 Damage to Artificial Members

The Board may pay for prosthesis, appliances and clothing worn or damaged by wearing artificial members.[58]

> 113 The board may, in addition to any other compensation, assume the expense of:
>
> > (a) the replacement or repair of broken dentures, eye glasses, artificial eyes or artificial limbs when breakage is caused by an accident in the course of the worker's employment;

The Board has submitted to the Committee that, in its experience: "The definition of what can be repaired or replaced is too narrow."

Recommendation: Amend subsection 113(a) to use language similar to the language in subsection 106(1)(c) so that subsection 113(a) reads "the replacement or repair of any artificial member or apparatus, including broken dentures, eye glasses, artificial eyes or artificial limbs when breakage is caused by an accident in the course of the worker's employment."

5.10 "Average Weekly Wage"

> 69.1 For the purposes of sections 70, 83 and 98.1 **"average weekly wage"** means the average weekly wage of the industrial composite as determined by the board from information published by Statistics Canada.[59]

The phrase "average weekly wage" is also used in subsections 76(b) and 77.01(3)(b), (4) and (6).

Recommendation: Amend the Act so that the definition of "average weekly wage" applies wherever it is used throughout the Act.

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[58] *The Workers' Compensation Act, 1979*, ss. 106(1)(c), 113(a) and s. 80.
[59] Ibid s.69.1.

6. RETURN TO WORK AND VOCATIONAL REHABILITATION

Return to health and a safe and sustained return to productive employment or self-sufficiency must be a primary goal for workers and the Board. Severe injuries and prolonged absences from remunerative work make return to work or entry into the workforce more difficult for injured workers and dependent spouses.

6.01 Vocational Rehabilitation

The Board may provide assistance to an injured worker or dependant spouse to achieve re-employment or self-sufficiency.[60] In recent years, the Board's expenditures on vocational rehabilitation in absolute dollars and as a percentage of expenses have been relatively static.

Figure 23: Vocational Rehabilitation Expenses (1995-2000)

	1995	1996	1997	1998	1999	2000
Expenses ($000)	$175,349	$144,762	$160,928	$172,848	$185,535	$189,751
VR expenditures ($000)	$2,343	$2,120	$2,276	$2,512	$2,562	$3,665
VR as % of expenses	1.34%	1.46%	1.41%	1.45%	1.38%	1.93%

"Vocational rehabilitation" is defined inclusively:

> 2(s.2) "**vocational rehabilitation**" means rehabilitation that is intended to return injured workers to suitable employment, and includes counselling, assessment, career planning, educational upgrading, education, training, on-the-job training, assistance with job search and assistance with job placement;

Internal Board referrals of injured workers or dependent spouses for vocational rehabilitation services have fluctuated since 1995. Beginning that year, the automatic referral of each file after thirteen weeks duration was discontinued. The Committee does not know why Client Service Representatives made fewer referrals in 1998.

Figure 24: Referrals to Vocational Rehabilitation Services (1994-2000)

1994	1995	1996	1997	1998	1999	2000
1,119	806	719	700	594	761	719

The Committee endorses:

- Safe and sustained return to productive work is a responsibility shared by workers, employers and the Board. Individuals must commit to, and participate in, their return to work.

[60] *The Workers' Compensation Act, 1979*, s. 115.

- Employers and unions must accommodate return to work.
- The Board must be realistic in assessing both the individual workers' potential for self-improvement to attain marketable skills, job preparation and actually achieving continuing employment.

6.02 Employer, Worker and Board Duties

Employers have a general duty to accommodate injured workers, where reasonably practicable, under subsection 44.3(1) of *The Labour Standards Act*. Injured workers have a duty to:

> (a) take all reasonable action to mitigate the loss of earnings resulting from an injury; and
>
> (b) where the circumstances require, co-operate with the board in the development of a rehabilitation plan that is intended to return the worker to a position of independence in suitable productive employment.[61]

An injured worker failing to co-operate, without good cause, may have compensation reduced or terminated.

> 104(4) The board may terminate or reduce payment to a worker of any compensation based on the worker's loss of earnings:
>
> (a) where the worker's loss of earnings is not related to the effects of the injury; or
>
> (b) without limiting the generality of clause (a), if:
>
> (i) without good reason, the worker is not available or declines to accept a bona fide offer of employment in an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging;
>
> (ii) without good reason, the worker fails to co-operate in, or is not available for, a medical or vocational rehabilitation program that has as its objective returning the worker to suitable productive employment;

[61] *The Workers' Compensation Act, 1979*, s.51.1.

(iii) in consultation with the worker, the board has designed and provided to the worker, at the expense of the board, a vocational rehabilitation program, and the worker has been allowed a reasonable time to obtain employment after completing the program;

(iv) the worker voluntarily:

(A) accepts employment in an occupation that has a lower rate of pay than an occupation in which the worker, in the opinion of the board in consultation with the worker, is capable of engaging; or

(B) withdraws from the labour force for reasons other than the effects of the injury; or

(v) the worker fails to comply with section 51.1.

The Board has the same power over a dependent spouse after the "expiration of entitlement to compensation" at the end of five years or when the youngest dependent child reaches 16 or 18 years of age.[62] During this time, "... the board may provide to that dependent spouse the same counselling and vocational assistance as would be provided to a worker in order to enable the dependent spouse to enter the labour force and become self-sufficient".

A dependant spouse did not suffer the workplace injury and is in a different situation than an injured worker. Attaining self-sufficiency and entering the labour market has different challenges for the dependent spouse, who may, or may not, have been providing an income to the household prior to the death of the spouse.

These duties on injured workers, employers and dependent spouses do not relieve the Board of responsibility. It is in a unique position to discharge a responsibility that no one else can. The Board has a role as facilitator and guardian of return to work for injured workers. It has the knowledge about the worker's injury and limitations and the experience with accommodation and return to work.

The Board has a statutory duty to "consult and co-operate with workers and surviving dependent spouses in the development of rehabilitation plans intended to return workers and dependent spouses to positions of independence in suitable productive employment".[63] This precludes the Board from simply making an edict about what the worker or dependent spouse must do or that they must be prepared to accept and pursue any employment. It must be "suitable, productive" employment.

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[62] *The Workers' Compensation Act, 1979*, ss. 104(5).
[63] Ibid ss. 21.1(1)(d).

This duty means the Board must be proactive in initiating return to work and energetic in facilitating return to work. It must follow-up to ensure the work is both suitable and productive. It is implicit that the work must be safe and the employment sustainable.

6.03 Estimating Future Earnings

Inflated or unrealistic estimations of future earnings absolves or diminishes the Board's responsibility and leaves an injured worker and family clinging to a subsistence life for both its adults and children. The number of estimated earning capacity reports prepared by the Board's vocational services has declined in recent years.

Figure 25: Estimated Earning Capacity Reports

1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
258	220	183	111	196	171	235	164	170	151

There is no reason to conclude with confidence this is a result of the Early Intervention Program.

The Board has adopted a practice of estimating or deeming an injured worker is capable of earning a graduated amount in the coming years. The amount of the increments is often far in excess of the experience of others in the workforce. The Board estimates that injured workers will work full-time, even though there is a higher incidence of part-time and casual employment in the labour market.

6.04 Punishing by Reducing or Terminating Compensation

The Board has the power to punish the worker or dependent spouse who does not co-operate by terminating or reducing compensation. This is a dramatic transition in the role of the Board from friend to foe - from supporting, consulting and co-operating with the worker or dependent spouse to accusing and punishing that person and their family.

The Board does not know how often its Client Service Representatives threaten to use, or actually use, this punitive power. Payments may be terminated for any number of reasons: a worker returns to work; a worker is deemed to have been cured and able to return to work; a worker is deemed to have the capability to earn his or her pre-injury wages; and so on. The worker may dispute these decisions and appeal. In the meantime, the worker and their family have no income.

In the exercise of the power under subsections 104(4) and (5), the Board is saying the worker or dependent spouse has been guilty of conduct that warrants reducing or discontinuing payments at a time when that person is still entitled to receive compensation, medical treatment and vocational rehabilitation assistance. The worker or dependent spouse may not agree he or she failed to co-operate without good reason or that they have been properly consulted by the Board or that the employment is either suitable or productive or that they have withdrawn from the labour force or accepted other employment or failed to fulfil his or her duty.[64]

These are decisions unlike others made by the Board. They are decisions that place the Board in judgement of the conduct of persons entitled to benefits. The worker or dependent spouse is powerless and without a cheque. The worker must either plead with the Client Service Representative (CSR) who made the decision to reverse the decision, perhaps at the price of agreeing to do whatever the CSR wants him or her to do.

These Board decisions do not require urgent action and can benefit from sober second review before they are finally made and communicated to the worker or dependent spouse.

The Board must have a higher degree of knowledge about the number and circumstances of these decisions and which CSRs are making them. It must treat these decisions as different from others made in the ongoing management of a claim and it must provide the worker with an expeditious avenue of appeal to someone other than the persons who made the original decision.

Recommendation: The Board collect data on the number, circumstances and identity of persons making or confirming the decisions to reduce or terminate compensation under each paragraph of section 104.

Recommendation: The Board institute a procedure that requires that each letter communicating a Board decision to reduce or terminate compensation under subsections 104(4)(b) and 104(5) be investigated and co-signed by a manager.

Recommendation: The Board adopt a policy, as it has on decisions under section 30, that appeals from decisions under subsections 104(4)(b) and 104(5) are to be made directly to the members of the Board and annually report the number and outcome of these appeals.

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[64] *Board Policy Manual*, POL13/98*.

7. GENERAL

7.01 "Chief Executive Officer"

Since 1996, the Board has undertaken continuous reorganization and several service initiatives. In 1996, it established the position of Chief Executive Officer, as recommended by the 1996 Committee of Review.[65] The title used in the statute is "executive director". This person cannot be the chairperson of the Board.[66]

Recommendation: Amend the Act to replace the title "Chief Executive Officer" for "executive director" in sections 2, 20, 169 and 173.

7.02 Certificate to Collect Unpaid Assessments

When there is default in payment of assessments, the Board, through the "executive director", may issue a certificate stating the unpaid amount that can be filed and enforced in the Court of Queen's Bench. The Act is specific in subsection 154(1) that the executive director must sign the certificate. The Committee agrees with the Board that, for administrative efficiency reasons, the Board should be able to delegate this authority to other senior employees of the Board.

Recommendation: Amend subsection 154(1) to replace the words "executive director" with "board".

7.03 Psychological Injury

There is continuing, broad based concern about the manner in which the Board investigates, develops, adjudicates and manages claims for psychological injuries, particularly claims referred to as stress claims, which may encompass a wide range of clinical conditions. These claims may be no time loss (medical aid only) or time loss claims. When they are time loss claims, the duration of the time loss and earnings replacement benefit may be brief or prolonged.

Appendix D is a profile of the Board's experience with claims for anxiety, stress and neurotic disorders for the five-year period 1996 to 2000. It reveals that there is neither an epidemic of claims nor an inflexible refusal to accept claims. The data in this appendix includes the Board's diagnostic codes for anxiety, stress, neurotic disorders unspecified (5210), post-traumatic stress (5211), panic disorder (5213) and anxiety, stress, neurotic disorder not elsewhere classified (5219). The industry descriptions are the Board's rate codes.

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[65] *Report of the Saskatchewan Workers' Compensation Act Committee of Review 1996*, p. 10.
[66] *The Workers' Compensation Act, 1979*, ss. 14(1.1).

The stigma associated with mental illness, and the often invisible and subtle nature of psychological injury, creates challenges for everyone associated with a psychological injury claim, including the Board's Client Service Representatives. Acquiring and evaluating the information necessary to determine the nature and causation of the injury and managing return to health present unique challenges for everyone involved. The Board has a specific published policy on stress claims.[67]

The manner in which the Board handles each case is a test of the Board's fulfillment of its duty to treat workers and their dependants in a fair and reasonable manner. The compilation and protection of the privacy of sensitive personal information is crucial to the fair treatment of the worker.

Recommendation: The fairness audit include an examination of (1) the Board's fulfilment of its duty to treat workers and their dependants fairly and in a reasonable manner in its adjudication and ongoing management of claims involving psychological injury, (2) the nature of the information the Board requests from workers, their families and treatment providers and (3) the protection of the privacy of that information.

7.04 Occupational Diseases

A compensable injury includes a disabling or potentially disabling condition caused by an occupational disease, which is defined in the Act.[68] Some occupational diseases are very rare and others, such as repetitive strain injuries like Carpal Tunnel Syndrome or Tendinitis, are common.

The diagnosis of the disease or disorder, the treatment, and the determination it has been permanently or temporarily, completely or partially resolved is a question for medical science. The determination of the cause of the disease or disorder as work-related is a judgement made by the Board's Client Service Representatives. These employees must rely on guidance from Board members about the information to obtain and the current scientific knowledge to apply to the information to make their decisions.

The guidance is provided to the Client Service Representatives, managers, Appeal Committee members, executive and new Board members through training manuals, internal directives, decisions of Board members on appeals and continuing education and training. To maintain integrity, currency, continuity and consistency in decision-making and medical opinions from Board Medical Officers, the Board members must approve policies, which must be published. Examples are those dealing with hearing loss, mercury poisoning and cardiac injuries based on the Washington State criteria.[69]

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[67] *Board Policy Manual*, POL02/92 and POL01/01.
[68] *The Workers' Compensation Act, 1979*, ss. 2(k) and (r.2).
[69] *Board Policy Manual*, POL35/91, POL21/71 and POL31/72.

They must review and approve guides for the adjudication of specific occupational diseases. Often it is claimed the guides are not current with the best and most current scientific knowledge.

For example, firefighters say the Board is out of date when it currently relies on the 1974 rules adopted by the Washington Department of Labour and Industries for the classification and rating of permanent partial disabilities for cardiac claims. In the past five years, the Board has accepted two claims for heart disease for firefighters. It recognizes that there is support in the medical literature for the existence of a high incidence of certain diseases, such as brain tumors, bladder cancer and leukemia and lymphoma among urban firefighters. In the past five years, the Board accepted one of two claims for cancer and one of two claims for myocardial infarction.

It is claimed the guides, for more common occupational diseases, are not uniformly followed and applied by Client Service Representatives, Board Medical Officers and the Appeals Committee and Board members on appeals.

The Board, like other workers' compensation boards and insurers, must choose among conflicting epidemiological and other scientific research to determine which it will rely upon and use to formulate guides for its decision-makers. It should sometimes follow the lead of others and sometimes take the lead because of occupational diseases prevalent in Saskatchewan, such as respiratory disease from inhaling grain dust.

Saskatchewan has a Chief Occupational Medical Officer.[70] The Board has access to an ergonomist in the Occupational Health and Safety Division of Saskatchewan Labour. The Workers' Compensation Board has some local resources it can utilize to assist it in preparing appropriate guides for developing and updating occupational disease adjudication. The Board has a prevention unit that engages in education.

What is currently missing is a published compendium of all the guides used by the Board in the adjudication of specific occupational diseases readily available for easy reference by all Board employees, including the Appeals Committee and Board members on appeals, treating physicians, the Office of the Worker's Advocate, Ombudsman and others. In addition, the stakeholders do not have ready access to statistics about claims involving diseases which were denied by the Board.

Recommendation: No later than the date of the 2002 annual meeting, the Board members review, approve and publish (1) all the guides currently used by the Board for the adjudication of occupational disease claims, (2) a list of guides currently under development and (3) a list of the occupational diseases for which there has been a claim in the past five years for which there is no developed guide.

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[70] *The Occupational Health and Safety Act, 1993*, c. O-1.1, s. 79.

Recommendation: Commencing with the 2001 annual report, the Board include in its Statistical Summary of Claims Reported data on occupational disease claims, by occupation, denied by the Board in the previous five years.

7.05 Worker's Advocates

A worker's advocate employed by the responsible minister "may assist any worker, or dependant of a worker, in respect of any claim being advanced by him for compensation."[71] The Office of the Worker's Advocate is an important and integral part of the workers' compensation program. The Office of the Worker's Advocate may "examine all files, records and other material of the Board that relate to the injury or death in respect of which the claim is made".[72] The role and responsibility of the Office of the Worker's Advocate must be respected and supported by the Minister and the Board.

Over the years, it has been a recurring theme of Committee of Review reports that the Office of the Worker's Advocate has not been providing timely service. The 1986 Committee of Review reported unmanageable backlogs.[73] The 1996 Committee was concerned about the backlog.[74]

There are currently over 655 workers waiting for an opportunity to talk to a worker's advocate.

In a recent report by the Canadian Association of Advisors/Advocates, Saskatchewan had the worst service response time in Canada.[75] The time a worker must wait for initial assessment of a request for service was less than one week, but the time a worker must wait in 2000/01 to have a case assigned, assessed and action taken was up to 80 weeks. This was up from 64 weeks in 1999/00. The second worst was Ontario at up to 22 weeks. The third worst was Alberta at up to 10 weeks.

Figure 26 lists the number of cases opened, closed and carried over each year since 1986. Fewer files were closed in the past three years than any year since 1991-92.

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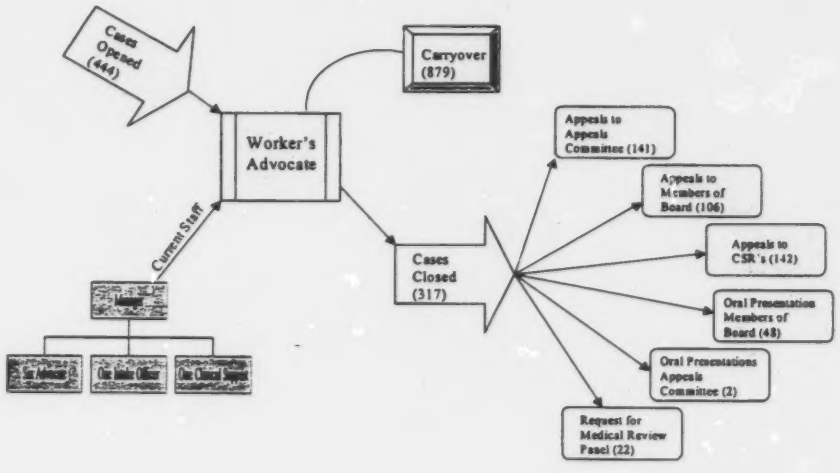
[71] *The Workers' Compensation Act, 1979*, ss. 161(3).
[72] Ibid ss. 161(5).
[73] *Report of the Workers' Compensation Committee of Review, 1986*, p. 69.
[74] *Report of the Workers' Compensation Committee of Review, 1996*, pp. 70-72.
[75] Canadian Association of Worker's Advisors/Advocates, *Statistical Report 1999/00 and 2000/01* (August 29, 2001).

Figure 26: Office of the Worker's Advocate Caseload History

Year	Opened	Closed	Carryover
1986-87	350	546	284
1987-88	341	375	250
1988-89	323	309	264
1989-90	223	264	223
1990-91	265	283	205
1991-92	392	343	254
1992-93	410	329	334
1993-94	483	410	407
1994-95	468	541	334
1995-96	471	496	309
1996-97	511	395	**425**
1997-98	383	352	**452**
1998-99	505	304	**643**
1999-00	434	301	**776**
2000-01	444	317	**879**

Figure 27: Caseload Disposition in Office of the Worker's Advocate 2000-2001


Cases Opened (444)
Carryover (879)
Worker's Advocate
Current Staff
Cases Closed (317)
Appeals to Appeals Committee (141)
Appeals to Members of Board (106)
Appeals to CSR's (142)
Oral Presentation Members of Board (48)
Oral Presentations Appeals Committee (2)
Request for Medical Review Panel (22)

The Office of the Worker's Advocate says there is a persistent problem with closing files because of systemic problems at the Board. It says that as the Board has moved toward an administrative model more closely resembling a private insurer; the Board has placed itself in direct conflict with the injured workers program it is intended to serve. The Office of the Workers' Advocate says the Early Intervention Program, case management and Return-To-Work programs "were intent on goals of limiting duration, costs and meeting organizational needs. The programs were not responsive to the individual needs of injured workers attempting to cope with overcoming the impact of serious injury."[76]

The Office of the Worker's Advocate says the result was the Board, and its programs, became more distant from injured workers' individual needs and the incidence of disputes increased as the level of trust in the program diminished. As a result, there was more demand for the services of worker's advocates and they became caught in the same adversarial situation as injured workers. The more the Board emphasizes administrative efficiency, the more it moves away from justice in adjudicating individual decisions and therefore there is a greater demand for a separate appeal tribunal. There has been an increase in appeals at the Board since 1995.

There has been turn-over in personnel at the Office of the Worker's Advocate. The current staff is one manager, six advocates, one intake officer and one clerical support. In the early 1990s there were five advocates, one intake officer and one clerical support. For a period in 1997, there was no manager and four advocates, of which two were new. A manager and a fifth advocate were hired in 1998. These changes occurred when the Board was reorganizing its structure and introducing new initiatives such as the Early Intervention Program.

In recent years, friction and one assigning blame to the other for the friction have marked the relationship between the Office of the Worker's Advocate and senior personnel at the Board.

Recommendation: The Board immediately provide the Office of the Worker's Advocate with electronic access to the Board's complete electronic claims files, including notes to file by various Board personnel.

Recommendation: The Minister take the steps necessary to ensure workers receive timely service from the Office of the Worker's Advocate.

7.06 Workers' Compensation Advisory Committee

In 2000, the Minister responsible for the Workers' Compensation Board had heard sufficient concerns from business, labour and injured workers to warrant a review of the workers' compensation system. The subsequent report made numerous recommendations for changes in the administration of the compensation program. The Board has already acted upon some of these recommendations.

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[76] Office of the Worker's Advocate, *Submission to Committee of Review*, section 4.

In addition, there is this legislated review of *The Workers' Compensation Act, 1979*, the regulations and the administration of the Act and the regulations.

While these are excellent processes, a more permanent advisory committee is needed to advise the Board members on existing and emerging issues which may impact the workers' compensation system. The Advisory Committee would provide advice on workers' compensation generally, and on specific situations that may arise. The Advisory Committee's structure would provide a regular communications link between the Board, the Office of the Worker's Advocate and the stakeholders.

The Advisory Council envisioned by the Committee of Review would consist of equal representation of organized labour and business, as well as representatives of the Office of the Worker's Advocate, the Workers' Compensation Board.

Recommendation: Amend the Act to provide for the establishment of an Advisory Committee consisting of equal representation of organized labour and business, as well as representation of the Office of the Worker's Advocate and the Workers' Compensation Board. Appointments to the Advisory Committee should be consistent with similar government committees.

8. SUMMARY OF RECOMMENDATIONS

Fairness

3.04 The Minister request the Ombudsman conduct a fairness audit of the Board. The scope of the audit is to be determined by the Ombudsman, after consultation with the Board, but will include specific attention to the Board's administration of the following sections of the Act: s. 50 (pre-existing conditions); s. 51.1 (duties of workers); s. 60 (request for medical review panel); s. 68 (determining loss of earnings / estimating and deeming future earning capacity); ss. 25(1) (justice and merits of the case); ss. 25(2) (benefit of the doubt); ss. 25(3) (reconsideration); ss. 104(4) (suspension and termination of benefits) and ss. 104(5) (dependant spouses).

3.05 Amend the Act to provide that appeals to the Appeals Committee are to be decided by two or more members of the Appeals Committee, which will continue to report to the Chief Executive Officer.

Amend the Act to include the addition of a full-time Appeals Commissioner as a member of the Board. The Appeals Commissioner is to be appointed for a term of at least four years and may be re-appointed.

Amend the Act to provide that the Appeals Commissioner, or in his or her absence the Chairperson, plus a Board Member representative of workers and a Board Member representative of employers must participate in each internal appeal to the Board Members and in each decision on a request for the Board to provide a Medical Review Panel.

4.05 Amend section 12 to provide for notice to an employer on the application of a worker.

7.03 The fairness audit include an examination of (1) the Board's fulfilment of its duty to treat workers and their dependants fairly and in a reasonable manner in its adjudication and ongoing management of claims involving psychological injury, (2) the nature of the information the Board requests from workers, their families and treatment providers and (3) the protection of the privacy of that information.

Benefits

5.01 Amend subsection 82(1) of the Act to increase the amount to $10,000, which is to be adjusted annually as in subsection 82(3).

Benefits - continued

5.03 Amend subsection 67(1) to provide for a minimum of $2,200 and a maximum of $45,200.

5.04 Amend section 67.1 to substitute 5% in place of 10%.

5.05 Amend subsection 74(3) to allow the worker to choose to receive either an annuity or a lump sum payment when the accumulated capital and interest is $20,000 or less.

5.06 Amend section 38.1 to establish a maximum wage rate, the calculation of which would be based on an annual review of the salaries of all time loss claims for the period July 1 to June 30 of the preceding year. The maximum wage rate is to be set so that 94% of time loss claimants would be eligible for compensation equivalent to their salary. The maximum wage rate is to be rounded up to the nearest $100. The maximum wage rate is not to be reduced. Using this method, the maximum insurable and assessable wage rate for 2002 would be $51,900.

5.08 The Board adopt and publish a policy on calculating the average weekly earnings of casual, seasonal and part-time workers before the 2002 annual public meeting.

5.09 Amend subsection 113(a) to use language similar to the language in subsection 106(1)(c) so that subsection 113(a) reads "the replacement or repair of any artificial member or apparatus, including broken dentures, eye glasses, artificial eyes or artificial limbs when breakage is caused by an accident in the course of the worker's employment."

Service

2.03 That the Board have an independent party undertake an objective evaluation of the performance of its Early Intervention Program assessing its service providers against clinically acceptable standards in a comprehensive manner similar to the process for accreditation of public health facilities.

2.05 The Board prepare a comprehensive, plain language statement and diagram explaining to each worker making a claim or requesting a reopening of a claim the steps the Board will take in dealing with the claim and the likely times at which each step will be taken.

2.06 The Board and the Office of the Worker's Advocate establish a formal mechanism for meeting face-to-face to discuss matters of concern with a view to improving the administration of the workers' compensation program. The mechanism is to include keeping minutes, recording what has been discussed, decided and committed.

Services - continued

If the Board and the Worker's Advocate have not established a formal mechanism by the date of the Board's 2002 annual meeting, the Board explain at that meeting why such a mechanism has not been established and, after that meeting, the Minister assist them to establish such a mechanism.

3.03 The Board implement a system to monitor and measure all adjudication in the administration of the Act, regulations and Board policy.

The Board implement a comprehensive training program for Client Service Representatives and other employees involved in primary adjudication.

6.04 The Board collect data on the number, circumstances and identity of persons making or confirming the decisions to reduce or terminate compensation under each paragraph of section 104.

The Board adopt a policy, as it has on decisions under section 30, that appeals from decisions under subsections 104(4)(b) and 104(5) are to be made directly to the members of the Board and annually report the number and outcome of these appeals.

7.05 The Board immediately provide the Office of the Worker's Advocate with electronic access to the Board's complete electronic claims files, including notes to file by various Board personnel.

The Minister take the steps necessary to ensure workers receive timely service from the Office of the Worker's Advocate.

Transparency/Accountability

2.03 That the Board publish both the expected recovery timetables and the list of chronic disability risk factors it uses, and amendments as they are made.

That the Board annually publish a report to the public on the actual results and outcomes of the Early Intervention Program for the previous year against its intended objectives.

2.04 The Board complete and publish a multi-year operational plan, including projected total and administration annual expenses, to implement its strategic plan.

2.05 The Board compile and publish all of its policy statements, practices and procedures developed and used by its employees for the basis of decisions under the Act.

Transparency/Accountability - continued

The Board organize the annual meeting so that it is a true public information and accountability session. That the Board post all information to be disseminated at the annual meeting on its website two weeks before the meeting; hold the annual meeting in the Spring before the vacation months of July and August; and provide adequate time at the meeting for workers and employers and their representatives to speak and ask questions.

The Lieutenant Governor in Council amend the regulations to require the Board to hold a true public information and accountability session.

2.06 The Board report each year at the annual public meeting on its relationship and communication with the Office of the Worker's Advocate.

5.03 Amend section 67 to require the Board to use the current edition of the AMA Guidelines.

5.07 Amend the Act to require the Board to publish the annual schedule setting out a table of earnings for the purposes of calculating gross earnings minus probable deductions.

Amend the Act to require the Board to issue with each compensation cheque to a worker an explanation of the calculation of the worker's gross earnings and the net amount of the compensation.

6.04 The Board institute a procedure that requires that each letter communicating a Board decision to reduce or terminate compensation under subsections 104(4)(b) and 104(5) be investigated and co-signed by a manager.

7.04 No later than the date of the 2002 annual meeting, the Board members review, approve and publish (1) all the guides currently used by the Board for the adjudication of occupational disease claims, (2) a list of guides currently under development and (3) a list of the occupational diseases for which there has been a claim in the past five years for which there is no developed guide.

Commencing with the 2001 annual report, the Board include in its Statistical Summary of Claims Reported data on occupational disease claims, by occupation, denied by the Board in the previous five years.

Miscellaneous

3.02 The Board adopt a deliberate focus and clear plan to stabilize the environment within the Board and relationships between the Board and workers and employers.

Miscellaneous – continued

4.05 The Board examine and express an opinion on whether all or some class(es) of industrial hog operations should be brought within the scope of the Act. If the Board is of the opinion that some or all industrial hog operations should be brought within the scope of the Act, notify the Lieutenant Governor in Council under subsection 11(1) of the Act.

4.06 The Government review whether the statutory bar to litigation against physicians and surgeons who allegedly exacerbate the injuries of injured workers through negligent action or inaction should be removed.

5.02 Amend section 30 to add the words "unless the contrary is shown."

7.06 Amend the Act to provide for the establishment of an Advisory Committee consisting of equal representation of organized labour and business, as well as representation of the Office of the Worker's Advocate and the Workers' Compensation Board. Appointments to the Advisory Committee should be consistent with similar government committees.

Housekeeping

4.03 Amend section 88 to change the two-year period to one year.

4.04 The Board diligently communicate and enforce these provisions of the Act.

5.06 Amend the Act to expressly state the maximum wage rate is the upper limit for gross earnings for purposes of calculating benefits.

5.10 Amend the Act so that the definition of "average weekly wage" applies wherever it is used throughout the Act.

7.01 Amend the Act to replace the title "Chief Executive Officer" for "executive director" in sections 2, 20, 169 and 173.

7.02 Amend subsection 154(1) to replace the words "executive director" with "board".

5.08 Amend subsection 70(4) to substitute "or" for "and".

APPENDICES

Appendix A

Committee of Review Members
Present and Past

2001 COMMITTEE MEMBERS

Section 162 of *The Workers' Compensation Act, 1979* requires that the Lieutenant Governor in Council appoint, at least once every four years, a committee of review consisting of five or more members, equally representative of business and organized labour.

On May 15, 2001, a seven member Committee of Review was appointed.

CHAIRPERSON - James E. Dorsey, Q.C.

A lawyer in practice as arbitrator, grievance investigator, arbitrator-mediator and related third party dispute resolution roles in labour relations. Mr. Dorsey is an expert in workers' compensation having acted as Minister's Special Representative reviewing the Saskatchewan Workers' Compensation Board in 2000; Chair of the Board of Governors of the British Columbia Workers' Compensation Board (1990-1994) and Interim President/Chief Executive Officer of the Board (1993-1994). Mr. Dorsey is currently chair of a Workers' Compensation Statutory Review Committee in Nova Scotia.

BOARD MEMBERS

Walter Eberle

The Senior Staff Representative for the Grain Services Union (ILWU-Canadian Area). Mr. Eberle's duties are varied and include responsibility for health and safety, workers' compensation and disability insurance claims appeals. Mr. Eberle also serves as a member on the Canadian Labour Congress' Federal Jurisdiction and Workers' Compensation Committee, which reviews and rewrites labour and health and safety laws and regulations.

Jacquie Griffiths

A Staff Representative for the Canadian Union of Public Employees. Ms Griffiths' duties include labour relations in the health care sector, and advisor on occupational health and safety and workers` compensation. Ms Griffiths was a member of the 1992 Workers' Compensation Act Committee of Review. Ms Griffiths' experience in the field of occupational health and safety and workers` compensation includes: being Chairperson of the Saskatchewan Federation of Labour's Occupational Health and Safety Committee and Workers' Compensation Sub-Committee; member of the Canadian Labour Congress' Occupational Health and Safety and Workers' Compensation Committees. Ms Griffiths is also a member of the Provincial Government's Occupational Health and Safety Council.

Garth Ivey

The President of the International Brotherhood of Electrical Workers Local 2038. Mr. Ivey has over 38 years of experience in the construction industry in various positions including Electrician, Electrical Project Superintendent, and General Foreman. Mr. Ivey's knowledge of occupational health and safety and workers' compensation has been accumulated over numerous years of involvement in the Saskatchewan Labour Force Development Board, Saskatchewan Construction Safety Association, Apprenticeship and Trade Certification Commission and member of the Provincial Government's Occupational Health and Safety Council.

Jack Mathieson

Former Director of Safety for IPSCO Inc. for the past 25 years. Mr. Mathieson's understanding of occupational health and safety and workers' compensation issues has been gained from numerous years of involvement in various organizations including: President and member of the Board of Directors of the Saskatchewan Safety Council for 20 years; past President and Provincial Director of the Canadian Society of Safety Engineering; registered member of the Association of Canadian Registered Safety Professionals; and member of the Provincial Government's Occupational Health and Safety Council.

Doug Pawson

Director of Workplace Health and Safety Services for the Saskatchewan Association of Health Organizations. Mr. Pawson has held numerous positions with the Saskatchewan Association of Health Organizations as well as SaskTel in the field of occupational health and safety. These positions have provided Mr. Pawson with an excellent knowledge of the workers' compensation process and case management procedures, knowledge of the emerging trends in workers' compensation in other jurisdictions, and experience in dealing with formal tribunals involving grievances and arbitrations.

Elaine Vetter

Former Human Resources Supervisor for Potashcorp responsible for the corporate Benefits and Pension programs. In this position Ms Vetter has accumulated significant knowledge of workers' compensation issues.

PAST COMMITTEES OF REVIEW

October 7, 1949 (O.C. 1900/49)

Chair
O.W. Valleau

Acting Chair
R. Heseltine, Commissioner, Workmen's Compensation Board

Members
A.W. Heise, Commissioner, Workmen's Compensation Board
James Griffiths, Saskatoon
William Davies, Moose Jaw
W. Johnson, Nipawin
T. Atkinson, Regina

January 5, 1954 (O.C. 2/54)

Chair
R. Heseltine

Members
A.D. Connon, Legislative Committee, Railroad Brotherhoods
Andrew Tait, Trades and Labour Congress
Walter Smishek, Canadian Congress of Labour
Thomas G. Bobier, Employers' Representative
F.G. Burtwell, Employers' Representative
E.E. Lord, Employers' Representative

June 10, 1958 (O.C. 1009/58)

Chair
O.W. Valleau

Members
Lucas Glasser
Harry Hilsden
Sam McLaughlin
Clifford Edward Minto
Thomas Park
Joseph E. Sawchyn

July 5, 1963 (O.C. 1272/63)

Chair
R.C. Carter

Acting Chair
C.C. Cave, representative of organized employees
Dave Wunsch, Waterman and Waterbury

Members
Mike Germann, representative of organized employees
R.E. Hale, representative of organized employees
O.M. McCreary, Federated Co-operatives
W.D. Smith, Canadian Pacific Claims Department
R.M. Traquair, South Saskatchewan Building and Construction Trades Council
Baden O. Wilson, Saskatchewan Co-operative Creamery Association

January 12, 1968 (O.C. 55/68)

Chair
Colin K. Murchison

Members
Dennis E. Foley, representative of employers
Gordon A. Millen, representative of employers
Thomas Park, representative of organized employees
Ross G. Seaman, representative of organized employees

November 12, 1971 (O.C. 1543/71)

Chair
Judge A.J.B.L. Muir

Members
Dr. C.A.R. Dennis, Director, Occupational Health Branch, Department of Public Health
R.G. Fowler, Executive Secretary, Workmen's Compensation Board
Edward S. Hlasny, Potash Corp. of America
Nels Thibeault, International Steel Workers of America

December 13, 1977 (O.C. 1823/77)

Chair
Judge A.J.B.L. Muir

Acting Chair
E.S. Hlasny, Superintendent of Personnel, Potash Corp. of America

Members
L. Antonini, President, Antonini & Sons Ltd.
L. Brown, Executive Secretary, Saskatchewan Federation of Labour
C. Crystal, Executive Officer, Saskatchewan Federation of Labour

December 4, 1985 (O.C. 1097/85)

Chair
Judge A.J.B.L. Muir

Members
Eric Antonini, President, Antonini and Sons Ltd.
Norm Brown, Plant Manager, Degelman Industries Ltd.
Virginia Kutzan, Saskatchewan Union of Nurses
Denis Magnan, Benefits & Compensation Director, Federated Co-operatives Ltd.
Glenn Maxwell, Personnel Superintendent, Cory Division, Potash Corp. of Saskatchewan
Gerry Munt, Saskatchewan Federation of Labour
Wes Norheim, Director of Organization, Prairie Region, Canadian Labour Congress
Greg Zaba, Construction Unions

April 24, 1996 (O.C. 309/96)

Chair
Joan Skingle

Vice Chair
Virgina Kutzan, worker representative

Members
Jack Hardy, employer representative
Susan Hay, employer representative
Richard Johnson, worker representative

October 14, 1981 (O.C. 1562/81)

Chair
Judge A.J.B.L. Muir

Members
Chuck Chrystal, Secretary, Saskatchewan Federation of Labour
Metro Kereluke, Director of Personnel, Saskatchewan Wheat Pool
Bob McWhillie, International Brotherhood of Electrical Workers
Wes Norheim, Director of Organization, Prairie Region, Canadian Labour Congress
William Spicer, former Manager, Saskatchewan Division, Canadian Petroleum Association
Haden Wilks, Saskatchewan Construction Association

September 1, 1991 (O.C. 91/663)

Chair
Judge A.J.B.L. Muir

Members
Jacquie Griffiths, Saskatchewan Federation of Labour
Edward Hlasny, Saskatchewan Mining Association
Virginia Kutzan, Saskatchewan Union of Nurses
Lawrence Lashyn, Western Caissons Ltd.
Arthur Maitland, Saskatchewan Council, Canadian Federation of Labour
Wesley Norheim, Saskatchewan Federation of Labour (CLC)
Royce Reichert, employer's Representative
Mona Selanders, employers Representative

Appendix B

Schedule of Public Meetings

SCHEDULE OF PUBLIC MEETINGS

Location	Date/Times	Venue
Swift Current	**September 10, 2001** 9:20 am - 12:00 pm 1:00 pm - 3:00 pm	Best Western - Convention Room
Regina	**September 11, 2001** 8:00 am - 12:00 pm 1:00 pm - 5:00 pm **September 12, 2001** 8:00 am - 12:00 pm 1:00 pm - 5:00 pm	Travelodge - Arlington Room
Yorkton	**September 17, 2001** 8:00 am - 12:00 pm 1:00 am - 3:00 pm	Royal Canadian Legion
Saskatoon	**September 18, 2001** 8:00 am - 12:00 pm 1:00 pm - 6:00 pm **September 19, 2001** 8:00 am - 12:00 pm 1:00 pm - 7:00 pm **September 20, 2001** 9:00 am - 3:30 pm	Saskatoon Inn - Ballroom B
North Battleford	**September 21, 2001** 9:40 am - 12:00 pm	Don Ross Centre - Room 107

Appendix C

List of Submissions and Presenters

List of Submissions and Presenters

The Committee of Review would like to thank the following individuals for their participation in the review process.

Name	Name
Roberta MacKinnon	Daniel Buzash
Ron Fast	Frank R. Isbell
Kathy Nelson	Don Fournier
Keith Peterson	E. Allen Sharpe
Frank Cox (Melville Theatre)	College of Physicians & Surgeons of Saskatchewan
Beverly Garland	Roland Scheuer
Lawrence Morrissette	Wayne Coady
Rhonda Ward	Regina Pioneer Village
Carl Anderson	Heavy Construction Safety Association of Saskatchewan
Albert Partridge	Joyce Brandt
Neil Miller	Sam Slipiec
Lynne Pearson	Canadian Union of Postal Workers
Joyce Clark	Chiropractors' Association of Saskatchewan
Donna Nagus	St. Joseph's Hospital of Estevan/South East Health District
Rick French	Rita and Steve Chernoff
Marion Neufeld	Irene Friesen
Jean M. Marshall	Saskatchewan Meat Industry Safety Association
Reg Galatiuk	Saskatchewan Teachers' Federation
Leona Brenzen	Scott Wilson
Jim Hankewich	Regina City Policemen's Association
James Crommer	Andy Johnson

Name	Name
Saskatchewan Public Service Commission	Canadian Restaurant & Foodservices Association
Norma Colvin	Phil Chernetsky and Ty Tully
Terry Horsman	Saskatchewan Professional Fire Fighters' Association
Harold and Dorothy Kuntz	Arden C. Fiala
Gary Anderson	Tom Brown
Pennie Fellinger	Ironworkers International
Saskatchewan Construction Association	Saskatchewan Mining Association
Kevin Milnes	Amber Greene
Diane Bell	Kenneth Bernges
Saskatchewan Union of Nurses	Saskatchewan Association of Health Organization
Kevin A. Clarke	Saskatchewan Physiotherapy Association
Michelle Mayo	John A. Molyneaux
Saskatchewan School Trustees Association	Carey Heilman
Canadian Federation of Independent Business	Voice of the Blue Rose Advocacy
Wes Norheim	United Transportation Union
Shirley Fedorowich	PIMA – Agricultural Manufacturers of Canada
Carmelle Beasley	
Phyllis Kew	North Saskatoon Business Association
Blaine Gilbertson	Saskatchewan Workers' Compensation Board
Brian Friesen	Canadian Union of Public Employees
Robert Dutka	Gordon Scrimbit
Saskatchewan Chamber of Commerce	Office of the Worker's Advocate

Name	Name
Saskatchewan Government and General Employees Union	Darrylyn Huyghebaert
Western Injured Workers Society	Grain Services Union
Carol Koffler	Robert Lindsay
James Milligan	Saskatchewan Federation of Labour
Grace Munro	Weyerhaeuser Canada
Kevin Singer	Lois Morison
Dale Payne	Brenda Stephens
Donna Maslow	Shirley Milne
Angela Dell	Saskatchewan Hotels Association
Helen Desmarais	John Buckmeyer
Adeline Oystreck	Ed Williamson
Dave Neuert	Darwin Scrimbit
Kelly Hogel	Retail, Wholesale and Department Store Union
Dale Flavel	Terry Shiplack
Dennis Nowoselsky	Cliff MacKay
Saskatchewan Home Builders Association	Victor Lau
Penny Gurney	Joanne Sajtos
G. Rushworth	Lucien Dedecker
Len Kaytor	Geraldine Ursu
Rose Polsom	Shirley Rolfe
Brad Galger	Wes Sommerfeld
Darlene Vidmar/Andrej Vidmar	Alex Taylor

Appendix D

Psychological Injury Claims

PSYCHOLOGICAL INJURY CLAIMS

Industry	Reported	Accepted	Acceptance Rate	Accepted Time Loss	Average Duration (days)	Accepted No Time Loss
Hospitals & Nursing Homes	238	59	25%	54	86.63	5
Government of Sask. & Supporting Departments and Agencies	126	47	37%	36	108.62	11
Cities, Towns, Villages & Rural Municipalities	96	34	35%	32	29.03	2
Hotels, Motels, Restaurants & Catering, Laundries, Protective Services	116	34	29%	23	97.91	11
Department Stores, Food Outlets & Like Commodities	76	23	30%	20	108.26	3
Offices, Professional, Financial, etc. as a Business	83	20	24%	19	146.82	1
Hardrock Mining, Shaft Sinking & Cross Cutting	19	18	95%	12	113.33	6
Trucking, Messenger Service, Urban Mail Service & Warehousing	40	18	45%	18	125.28	0
Operation of Railways	17	13	76%	11	45.55	2
Depositors	38	13	34%	13	127.31	0
Building Construction & Related Trades	25	11	44%	8	20.75	3
Drug Stores, Dry Goods, Stationery	28	11	39%	11	239.73	0
Automotive & Implement Sales and Service	31	7	23%	6	130.67	1
School Boards, Universities, & Regional Colleges	50	6	12%	5	325.60	1

Industry	Reported	Accepted	Acceptance Rate	Accepted Time Loss	Average Duration (days)	Accepted No Time Loss
Sawing, Planing, Stud & Chip Mills, Peeling & Preserving, Creosoting, Plywood	7	4	57%	4	9.50	0
Metal Foundries & Mills	7	4	57%	4	2.25	0
Pulp & Paper Mills	5	3	60%	3	201.00	0
Open Seam Mining	6	3	50%	2	73.25	1
Metal Manufacturing, Machine Shops, Marble Works, Concrete Block & Ready Mix	10	3	30%	2	7.50	0
Processing Meat, Poultry & Fish	17	3	18%	2	15.50	1
Logging Operations	2	2	100%	1	1,261.00	1
Operation of Oilwells	3	2	67%	0	0.00	2
Printing, Publishing & Manufacturing Stationery & Small Wares	6	2	33%	2	111.00	0
Manufacturing Agricultural Equipment	6	2	33%	1	3.00	1
Caretaking, Commercial Maintenance, Service Clubs, Park Boards & Authorities	15	2	13%	2	148.00	0
Oilwell Servicing	1	1	100%	1	159.00	0
Oil, Gas Drilling, Service Rigs & Water Well Drilling	1	1	100%	1	161.00	0
Commercial Flying, Flying Training, Aircraft Maintenance, All Other Flying - Including Incidental Maintenance	2	1	50%	1	0.00	0
Light Agricultural Operations	7	1	14%	0	0.00	1

Industry	Reported	Accepted	Acceptance Rate	Accepted Time Loss	Average Duration (days)	Accepted No Time Loss
Refineries, Gas & Oil Pipelines, and Solution Potash Mining	8	1	13%	1	194.00	0
Flour Mills, Seed Plants, Aluminium & Glass Shops, Sodium Sulfate Production, and Manufacturing Cement	11	1	9%	1	521.00	0
Co-Operative Associations	21	1	5%	1	9.00	0
Farming & Ranching	3	0	0%	0	0.00	0
Grain Elevators & Inland Terminals	5	0	0%	0	0.00	0
Lumber Yard, Builders Supplies	2	0	0%	0	0.00	0
Conventional Potash Mining & Refining	0	0	0%	0	0.00	0
Bakeries, Dairy Products, Soft Drinks, Food Preparation, Distilleries, Brewers	8	0	0%	0	0.00	0
Road Construction & Earthwork, Urban Sewer & Water, Tunnelling	3	0	0%	0	0.00	0
Architects, Surveying, Engineering, Material Inspection & Marketing Representatives	2	0	0%	0	0.00	0
Telecommunications	6	0	0%	0	0.00	0
Generation & Transmission of Electric Systems	2	0	0%	0	0.00	0

Appendix E

Statistical Summary

Figure 1: Government Employees' Compensation Act Costs and Fees (1995-2000)

	1995	1996	1997	1998	1999	2000
Claims Costs	$1,607,719	$1,604,349	$1,827,822	$1,685,809	$2,378,857	$1,991,628
Administration Fees	$414,741	$429,524	$523,330	$505,669	$766,579	$594,211
Adjudication Fees	$134,803	$58,572	$138,497	$101,934	$147,732	$158,783

Figure 2: Employment Distribution (000s) (1996-2000)

	1996	1997	1998	1999	2000
Agriculture	71.4	70.0	71.6	67.5	62.0
Other Primary Industries	13.9	16.5	15.9	13.5	16.5
Manufacturing	28.4	29.4	30.4	28.4	29.4
Construction	19.9	22.2	22.4	23.5	24.6
Transportation, Warehousing, Other Utilities	27.6	27.7	27.1	28.6	31.7
Trade	69.8	71.4	73.6	76.6	76.3
Finance, Insurance, Real Estate, Leasing	24.5	25.2	25.4	27.7	26.6
Service:					
Professional, Scientific and Technical Services	13.7	14.3	15.6	15.2	16.7
Management of Companies and Administrative and Other Support Services	9.2	9.3	10.1	11.8	10.4
Educational Services	31.7	32.7	34.5	36.3	36.0
Health Care and Social Assistance	48.6	51.0	50.4	51.2	54.6
Information, Culture and Recreation	16.9	17.5	18.7	20.0	18.0
Accommodation and Food Services	29.3	29.1	28.3	30.9	33.1
Other Services	23.3	24.1	23.6	25.3	23.8
Public Administration	29.3	29.7	28.7	26.7	26.7
Total	457.5	470.0	476.3	480.1	485.0

Figure 3: Reserves Profile ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Disaster & Occupational Disease	12,463	12,463	19,300	20,740	22,264	22,770
Second Injury & Re-employment	5,675	5,675	4,800	5,185	5,566	5,693
Economic Stabilization	0	0	24,100	25,925	27,830	28,463
General	21,737	10,599	0	0	0	0
Operating	0	0	0	0	0	0
Future Benefits Administration	0	0	41,800	44,937	48,239	49,335
Contingency	0	0	0	23,000	0	0
Injury Fund	0	9,743	24,501	24,097	28,397	30,731
Total Reserves	**39,875**	**38,480**	**114,501**	**143,884**	**132,296**	**136,992**
Total Expenses	175,349	144,762	160,928	172,848	185,535	189,751
Reserves as % of Expenses	**22.74%**	**26.58%**	**71.15%**	**83.24%**	**71.31%**	**72.20%**

Figure 4: Income Profile ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Assessments Collected	137,908	154,517	179,286	157,735	154,733	147,958
Merit Rebate	-8,876	-11,393	-12,436	-14,331	-13,843	-12,276
Surplus Rebate	0	0	0	-23,000	-36,000	-36,000
Debt Amortization	0	0	0	5,931	5,194	2,937
Surplus Amortization	0	0	0	-10,689	-9,179,	-16,606
Surcharge Penalty	2,526	3,418	2,855	3,258	4,448	3,444
Government of Canada	1,607	1,605	1,828	1,686	2,379	1,992
Safety Associations	-1,641	-1,359	-1,655	-1,9330	-2,233	-2,635
Net Assessments	131,524	146,788	169,878	118,657	105,499	88,814
Investment Income	**40,658**	**54,209**	**67,071**	**78,816**	**96,206**	**105,633**
Total Income	172,182	200,997	236,949	197,473	201,705	194,447
Investment Income %	**23.61**	**26.97**	**28.31**	**39.91**	**47.70**	**54.32**

Figure 5: Assessable Payroll ($billions) (1996-2000)

	1996	1997	1998	1999	2000
Assessable Payroll	7.47	8.14	8.49	8.73	9.08

Figure 6: Early Intervention Program and Medical Officer Referrals (1995-2000)

	1995	1996	1997	1998	1999	2000
Workers seen by assessment team	n/a	100	1,129	1,577	1,471	1,580
Admissions to treatment centers	391	761	776	1,079	960	1,190
Claims longer than four weeks	n/a	n/a	7,439	7,655	7,849	8,830
Referrals to Board Medical Officers	9,998	6,769	5,677	4,707	4,932	4,847

Figure 7: Reported/Settled Claims (1995-2000)

	1995	1996	1997	1998	1999	2000
Reported claims	36,629	37,169	38,954	37,657	36,346	37,717
Settled claims	31,370	32,471	31,520	30,276	29,314	30,519

Figure 8: Average Claims Duration in Days (1996-2000)

	1996	1997	1998	1999	2000
All claims	21.4	22.2	23.9	24.9	25.8
Claims < 4 weeks	6.42	6.53	6.49	6.52	6.72
Claims > 4 weeks	81.50	81.97	84.56	86.54	86.66

Figure 9: Average Number of Treatment Days in the Early Intervention Program (1997-2000)

		1997	1998	1999	2000
Secondary treatment		31.41	33.54	35.69	34.52
Tertiary treatment		46.16	45.81	44.48	45.93
	Average	34.87	37.65	39.37	39.69

Figure 10: Time Loss Prior to Referral to EIP (weeks) (1997-2000)

		1997	1998	1999	2000
Secondary assessment		18.75	21.27	22.19	22.00
Tertiary assessment		24.01	31.91	35.33	37.70
	Average	19.95	24.81	27.69	29.00

Figure 11: Workers Reported Capable of Returning to Work (1997-2000)

	1997	1998	1999	2000
Secondary treatment	76%	84%	87%	85%
Tertiary treatment	74%	70%	67%	66%

Figure 12: Worker's Fitness to Return to Work from Secondary Treatment, by Category (1997-2000)

	1997	1998	1999	2000
Fit to Return to Pre-Injury Work	264	540	477	547
Discharged with Restrictions	19	33	30	27

Figure 13: Worker's Fitness to Return to Work from Tertiary Treatment, by Category (1997-2000)

	1997	1998	1999	2000
Fit to Return to Pre-Injury Work	72	220	259	356
Discharged with Restrictions	13	59	75	114

Figure 14: Claims Profile (1995-2000)

	1995	1996	1997	1998	1999	2000
Reported Claims	36,629	37,169	38,954	37,657	36,346	37,717
Total claims not accepted	5,633	5,437	5,409	5,309	4,870	4,790
Not accepted because:						
Disallowed	2,206	2,926	2,867	3,007	2,809	2,409
Rejected - no reply	614	731	878	1,022	1,438	1,368
Duplicate/cancelled	70	580	404	360	412	551
Not covered by statute	242	159	177	177	243	247
Inter-provincial	364	351	317	265	252	302
Other	1,763	690	766	478	284	135
Total claims accepted	30,996	31,732	33,545	32,348	31,476	32,927
Type of accepted claims:						
Time loss claims	13,320	13,018	13,430	13,081	13,108	14,433
No time loss claims	17,654	18,690	20,690	19,240	18,337	18,459
Fatalities	22	24	34	27	31	35
Reopened claims (within 6 months)	4,792	4,504	4,910	5,942	6,482	7,637
Total reported & reopened	41,421	41,673	43,864	43,599	42,828	45,354

Figure 15: Employer Profile (1995-2000)

	1995	1996	1997	1998	1999	2000
Active employers	29,020	28,222	29,473	31,246	31,110	30,680
Persons opted for coverage	5,367	4,633	4,958	4,857	4,921	4,665
Total	34,387	32,855	34,431	36,103	36,031	35,345

Figure 16: Administration Expenses ($000) (1995-2000)

	1995	1996	1997	1998	1999	2000
Salaries	12,742	12,564	13,941	14,945	16,355	17,645
Amortization	4,165	5,012	5,507	5,163	5,580	5,276
Computer processing	3,772	3,907	4,035	4,803	4,806	4,825
Employee benefits	1,566	1,757	2,039	2,199	2,833	2,219
Printing, stationery and office supplies	582	943	957	1,893	2,858	2,149
Communications and postage	859	914	953	1,037	1,139	1,013
Building operations	866	843	922	935	1,007	1,018
Professional services	246	661	790	889	1,508	1,581
Consulting services	624	637	656	559	861	991
Travel and automobile expenses	460	415	531	509	747	892
Miscellaneous	225	207	175	485	718	833
Office rental	147	148	174	212	230	274
Office machines and equipment	113	84	52	101	88	150
Sub-Total	**26,367**	**28,092**	**30,732**	**33,730**	**38,730**	**38,866**
Less:						
Expenses charged to Government of Canada	415	429	523	506	766	594
Premium penalties	447	675	730	848	800	600
Adjudication fees	135	111	139	102	148	159
Total	**25,370**	**26,877**	**29,340**	**32,274**	**37,016**	**37,513**

Figure 17: WCB Staff Complement (1995-2000)

	1995	1996	1997	1998	1999	2000
Staff	337	345	370	378	384	407

Figure 18: Net Administration Expenses ($000) as Percentage of Payroll, Revenue (premiums & investment income), Assessment and Total Expenses (1995-2000)

	1995	1996	1997	1998	1999	2000
Net administration cost	$25,370	$26,877	$29,340	$32,565	$37,016	$37,513
Admin as % of assess. payroll	0.347%	0.360%	0.360%	0.384%	0.424%	0.413%
Admin cost per reported claim	$692.62	$723.10	$753.20	$864.78	$1,018.43	$994.59
Revenue (premiums and investment income)	$173,823	$202,356	$236,949	$220,473	$237,705	$230,447
Admin cost as % of revenue	14.60%	13.28%	12.38%	14.77%	15.57%	16.28%
Assessment revenue	$133,165	$148,147	$169,878	$141,657	$141,499	$124,814
Admin cost as % of assessments	19.05%	18.14%	17.27%	22.99%	26.16%	30.06%
Total expenses	$133,165	$144,762	$160,928	$172,848	$185,535	$189,751
Admin cost as % of expenses	14.47%	18.57%	18.23%	18.84%	19.95%	19.77%

Figure 19: Appeals by Category (1995-2000)

		1995	1996	1997	1998	1999	2000
Appeals Committee		467	714	693	892	813	873
Board Members		189	221	223	252	212	201
	Total	656	935	916	1,144	1,025	1,074

Figure 20: Fatality Claims (1995-2000)

	1995	1996	1997	1998	1999	2000
Accepted	22	24	34	27	31	35

Figure 21: Permanent Functional Impairment Ratings (1996-2000)

	1996	1997	1998	1999	2000
Number	327	371	252	230	146
Average %	9.42	10.05	9.26	9.38	7.52
Total Cost	**$784,963**	**$989,865**	**$638,608**	**$548,758**	**$295,801**

Figure 22: Cosmetic Permanent Functional Impairments (1991-2000)

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Claims	5	35	31	27	16	34	34	34	24	26
Average	$3,717	$3,361	$3,652	$1,450	$2,709	$2,211	$2,019	$1,313	$1,966	$2,065
Total	$18,587	$117,647	$113,193	$39,148	$43,437	$75,169	$68,651	$44,656	$47,180	$53,687

Figure 23: Vocational Rehabilitation Expenses (1995-2000)

	1995	1996	1997	1998	1999	2000
Expenses ($000)	$175,349	$144,762	$160,928	$172,848	$185,535	$189,751
VR expenditures ($000)	$2,343	$2,120	$2,276	$2,512	$2,562	$3,665
VR as % of expenses	1.34%	1.46%	1.41%	1.45%	1.38%	1.93%

Figure 24: Referrals to Vocational Rehabilitation Services (1994-2000)

1994	1995	1996	1997	1998	1999	2000
1,119	806	719	700	594	761	719

Figure 25: Estimated Earning Capacity Reports

1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
258	220	183	111	196	171	235	164	170	151

Figure 26: Office of the Worker's Advocate Caseload History

Year	Opened	Closed	Carryover
1986-87	350	546	284
1987-88	341	375	250
1988-89	323	309	264
1989-90	223	264	223
1990-91	265	283	205
1991-92	392	343	254
1992-93	410	329	334
1993-94	483	410	407
1994-95	468	541	334
1995-96	471	496	309
1996-97	511	395	**425**
1997-98	383	352	**452**
1998-99	505	304	**643**
1999-00	434	301	**776**
2000-01	444	317	**879**

Figure 27: Caseload Disposition in Office of the Worker's Advocate 2000-2001